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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

THE PEOPLE OF THE STATE OF MICHIGAN

.vs

Case No. 03-001609

MICHON DESMOND HOUSTON,

Defendant.

JURY TRIAL

PROCEEDINGS HAD in the above-entitled cause before
the HONORABLE VERA MASSEY JONES, Circuit Judge, Detroit,
Michigan on Monday, April 7th, 2003.

APPEARANCES:

For the People:

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MICHIGAN COURT OF APPEALS
FIFTH DISTRICT

APPROVED

8-18-03

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25		

1 Detroit, Michigan

2 Monday, April 7, 2003

3 Morning session

4 - - -

5 THE CLERK: All rise for the jury.

6 (Jury enters courtroom)

7 THE COURT: Do I have the stipulation that
8 all of our jurors are here and in their proper
9 places?

10 MR. HASSINGER: People so stipulate.

11 MR. LANKFORD: Defense also.

12 THE COURT: Ladies and gentlemen, I
13 apologize to you, but you know when you make real
14 good plans I'm supposed to take two weeks off in
15 May to help my daughter with the new baby that's
16 going to be born May 22nd. Well, the baby decided
17 to come Friday and at 10:40 we were on our way to
18 the hospital at 3:00 o'clock in the morning, and I
19 have a new granddaughter, a baby girl.

20 (Audience clapped)

21 THE COURT: Thank you. But that's why I
22 wasn't here. Now, I'll remind the witness you're
23 still under. Sir, would you please resume the
24 witness stand.

25 You may proceed, counsel.

1 MR. LANKFORD: Thank you.

2 OFFICER MELVIN WILLIAMS

3 was thereupon called as a witness by the People
4 herein and having been previously duly sworn, was
5 examined and testified as follows:

6 CROSS-EXAMINATION, continuing

7 BY MR. LANKFORD:

8 Q. Officer Williams, good morning?

9 A. Good morning.

10 MR. LANKFORD: May I set this briefly up,
11 Your Honor?

12 THE COURT: Go right ahead.

13 MR. LANKFORD: I think where we left off,
14 Your Honor, is Officer Williams is at the diagram.
15 If you could please, sir.

16 BY MR. LANKFORD:

17 Q. I want to ask you a couple of things. I think we
18 had gone through your position when you first saw
19 something in the alley you had come past a clump of
20 weeds and then a pile of debris and near where that
21 light pole is, sir, here?

22 A. No, no, on Buena Vista.

23 Q. I'm going to get your bearings, correct.

24 A. Okay.

25 Q. Is that right, sir, you had come by a clump of

1 weeds and a pile of debris near where that light
2 pole is?

3 A. You mean my vehicle?

4 Q. Your vehicle, yes, sir.

5 A. Correct.

6 Q. And also you had been talking about 2638 Glendale,
7 right?

8 A. Correct.

9 Q. And you can see a 2638 Buena Vista on that diagram,
10 sir?

11 A. Right here is the area.

12 Q. And Glendale would be the next block south?

13 A. Correct.

14 Q. And the number there is sequential in the same
15 pattern as what's depicted there?

16 A. On Glendale?

17 Q. Yes, sir.

18 A. Well, it's not showing here but --

19 Q. Okay, you're familiar with the area from patrol?

20 A. Yeah.

21 Q. That area west of Linwood is the 2600 block over on
22 Buena Vista and on Glendale?

23 A. Correct.

24 Q. Okay, thank you, if you would please, sir, you may
25 resume your seat if you would, officer. Thank you.

1 And at the time that you arrived you were
2 talking about doing some canvassing then you stay in
3 the area for a while, sir, would that be fair?

4 A. Yes, sir.

5 Q. And set up some type of preliminary security?

6 A. Yes, sir.

7 Q. And do you remain until the Investigator Jackson or
8 the evidence tech arrive?

9 A. Yes, sir.

10 Q. Okay, so you were the one that found Mr. Thomas?

11 A. Yes, I was.

12 Q. And you were there when the evidence tech did
13 arrive, correct, sir?

14 A. Yes, I was.

15 Q. And you point out the area where you had seen the
16 things, correct?

17 A. Yes, I did.

18 Q. All right.

19 At any time while you were there did you
20 remove or recover any shell casings?

21 A. No, I didn't.

22 Q. At any time while you were there, did a person by
23 the name of Laverio Crooks approach you in any way?

24 A. No.

25 Q. One moment, please.

1 So you did indicate though the time that
2 you were coming down Buena Vista dawn was breaking?
3 In other words, it was getting light as you made
4 that?

5 A. Yes, sir.

6 Q. You get no weeds in the field impeded your vision
7 of the body?

8 A. No, sir.

9 MR. LANKFORD: Thank you, nothing else.

10 THE COURT: Any redirect?

11 MR. HASSINGER: Briefly, Judge.

12 REDIRECT EXAMINATION

13 BY MR. HASSINGER:

14 Q. Okay, Officer Williams, I wanted to clear up one
15 thing that was confusing myself, at least over the
16 weekend, why don't you come back down to the
17 diagram for me for one second, please.

18 Now, when you found Mr. Thomas there in
19 the field, did you yourself personally observe any
20 blood in the field?

21 A. Yes, I did.

22 Q. Okay.

23 And you see where on our diagram there is
24 some blood indicated with a round circle in front
25 of a tree, correct?

1 A. Right here?

2 Q. Yes.

3 A. Yes.

4 Q. Okay.

5 Now in relation to that blood did you
6 find Mr. Thomas?

7 A. Mr. Thomas sat maybe right here and then there was
8 blood here.

9 Q. Can you give us any idea the distance between the
10 blood indicated on our chart and how far Mr. Thomas
11 was from it?

12 A. Foot and a half, maybe two feet.

13 Q. I know you didn't actually measure that, right?

14 A. No, I didn't.

15 Q. But that's your best estimate today a foot and a
16 half to two feet?

17 A. Correct.

18 MR. HASSINGER: Thank you, Judge. I have
19 nothing further.

20 MR. LANKFORD: No re-cross. Thank you.

21 THE COURT: We thank and excuse the
22 witness. You're free to go.

23 THE WITNESS: Thank you, ma'am.

24 THE COURT: Are you ready to call your
25 next witness?

1 MR. HASSINGER: Yes, we'd like to call
2 Officer Adams.

3 THE CLERK: Please raise your right hand.
4 Do you solemnly swear or affirm that the testimony
5 you're about to give before the court to be the
6 truth under the pains of penalty of perjury?

7 MR. ADAMS: I do.

8 MR. HASSINGER: Thank you, Judge.

9 THE COURT: Please be seated right there,
10 and we're going to ask you to speak right into the
11 microphone. Counsel, whenever you're ready.

12 MR. HASSINGER: Thank you, Your Honor.

13 CHARLES ADAMS
14 was thereupon called as a witness herein and having
15 been duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. HASSINGER:

19 Q. Good morning, sir, would you please introduce yourself
20 to our jury?

21 A. Hello, my name is Officer Charles Adams.

22 Q. And how are you employed, sir?

23 A. With the Detroit Police Department.

24 Q. Sir, I'd like to take you back to November 9th of
25 last year, 2002 at Saturday 1:15 in the p.m. Do

1 you recall if you were working back on that date
2 around that time?

3 A. Yes, I was.

4 Q. Can you tell us how long you've been a police
5 officer?

6 A. Approximately eight years.

7 Q. Back on that date around that time, what was your
8 assignment?

9 A. I was working 36, I don't specifically know what
10 particular car I was working.

11 Q. Okay.

12 Around that time did you come into
13 contact with somebody by the name of Laverro Crooks?

14 A. Yes, I did.

15 Q. How was it you came in contact with Mr. Crooks back
16 on that date?

17 A. Prior to that particular time at our roll call at
18 the beginning of the shift what we were doing we
19 were looking at some of the prior PCR's, which are
20 preliminary complaint reports, different crimes
21 that had happened. And we put together a description
22 of a particular individual and a particular area
23 where things were happening and that's what we were
24 interviewing Mr. Crooks about.

25 Q. Okay.

1 And where did you first meet up with
2 Mr. Crooks?

3 A. We went to his home. I don't remember the address.
4 I need my PCR to recollect.

5 MR. HASSINGER: May I approach the
6 witness, Your Honor?

7 THE COURT: Yes, you may.

8 BY MR. HASSINGER:

9 Q. Sir, I'm going to hand you a piece of paper and ask
10 you if you can identify this for me, please?

11 A. This is the PCR that I made earlier in the day
12 during the arrest.

13 Q. So you met up with Mr. Crooks at his home?

14 A. Yes.

15 Q. Okay, and how was it you knew where Mr. Crooks
16 lived?

17 A. One of the reports that were made earlier from the
18 felonious assault that happened to Mr. Crooks. He
19 was the complainant.

20 Q. Was Mr. Crook at his home when you arrived there?

21 A. Yes, he was.

22 Q. Was anybody else with you?

23 A. Yes, my partner was, my scout car partner.

24 Q. What's that's person's name?

25 A. That's going to be Olivia Moss, Police Officer

1 Olivia Moss.

2 Q. And when you went to Mr. Crooks' house, did you
3 develop any type of plan to try and get a suspect
4 in custody?

5 A. Yes, we did.

6 Q. What was the plan you developed?

7 A. After talking to Mr. Crooks, after interviewing him
8 he said that --

9 MR. LANKFORD: Objection, hearsay.

10 MR. HASSINGER: This is going to explain
11 what actually --

12 THE COURT: It goes to the reasons for the
13 actions, not for the truth of the matter stated.
14 I'll overrule the objection.

15 MR. HASSINGER: Thank you, Your Honor.

16 BY MR. HASSINGER:

17 Q. Go ahead.

18 A. After receiving the information, we're talking to
19 Mr. Crooks and he explained to me that Mr. Houston
20 would come out after when Mr. Crooks got in that
21 area.

22 Q. What area are we talking about?

23 A. We're talking about Buena Vista and Linwood.

24 Q. Is that an area you're personally familiar with?

25 A. Yes.

1 Q. How is it you're familiar with that area?

2 A. It's a high crime area. Heavy drug infestation.
3 I've made several arrests in that location.

4 Q. Okay.

5 Did Mr. Crooks have an address where he
6 believed you could find Michon Houston?

7 A. Yes, he did.

8 Q. And do you know what that address is?

9 A. Going back to my PCR.

10 Q. Would that help refresh your memory?

11 A. Yes, it would.

12 Q. Please do.

13 A. 2675 West Buena Vista.

14 Q. What specifically is your plan about how you're
15 going to get Mr. Houston in custody?

16 A. Me and my partner were working plain clothes or
17 semi-marked where we don't have police uniforms or
18 anything like that. Basically we have our badge
19 around our neck. You know, if you cover up your
20 badge you can look like anybody else.

21 We parked away from the location and we
22 walked -- we were like east of this particular
23 address, this 2675. And we pretty much just sat up
24 on the porch.

25 Q. How far away from the house where Mr. Houston was

1 supposed to be?

2 A. Approximately about 100 feet, I'd say.

3 Q. Now, after you and your partner setup, what's Mr.
4 Crooks supposed to do?

5 A. Mr. Crooks is supposed to do his normal. He's
6 supposed to come back over in that area, park his
7 car and hopefully Mr. Houston would show up.

8 Q. Now, what did you know about Mr. Crooks prior to
9 setting up this arrangement with him?

10 A. Well, I knew that he did frequent the area. He was
11 suspected for selling drugs over in that area too.

12 Q. So you knew -- go ahead.

13 A. Suspected for selling drugs in that area. I'm going
14 to say based on my information and my knowledge as
15 a police officer that he was selling drugs in that
16 area.

17 Q. Okay.

18 And even though you knew that he was a
19 guy who sold narcotics over there, you were still
20 willing to setup this system with him to try to get
21 Mr. Houston into custody?

22 A. Yes, because basically I was -- we were
23 investigating the crime that happened to him, even
24 though what he was doing over there was illegal, a
25 crime that happened and that's what we were

1 investigating.

2 Q. Okay.

3 So after you and your partner get setup,
4 do you see Mr. Crooks driving on Buena Vista?

5 A. Yes, he was coming westbound. He crossed Linwood
6 and came up Buena Vista westbound. He pulled up
7 parked his car and see if he can get him out.

8 Q. Where did Mr. Crooks park his car in relationship
9 to this house that Mr. Houston was supposed to be
10 in?

11 A. I want to say approximately maybe not directly
12 across the street from it, but maybe about a house
13 before that on the opposite side of the street. He
14 exited his vehicle. You know, as he exited his
15 vehicle, you know, people in the neighborhood
16 because they knew that he was into it with Mr.
17 Houston, the neighborhood kind of --

18 MR. LANKFORD: I'm going to object, Your
19 Honor.

20 THE COURT: Sustained. You can't tell what
21 was in other people's mind.

22 BY MR. HASSINGER:

23 Q. Right. Just tell you what you observed?

24 A. I observed the neighborhood got kind of quiet.
25 People got aroused at the fact that he showed up.

1 You can see people starting to notice. They
2 stopped and looked at him because they knew
3 something was about to happen or that's what I
4 assumed that they felt that something was about to
5 happen.

6 Q. Did you make any observations about that house
7 where Mr. Houston was supposed to be?

8 A. Yes. Mr. Houston came out of the front door onto
9 the porch.

10 Q. For the record do you see Mr. Houston here in the
11 courtroom today?

12 A. Yes, I do.

13 Q. Could you point to him and tell us what he's
14 wearing today, please?

15 A. He's wearing a black shirt with beige pants and
16 black shoes with his hair braided to the back with
17 the two tear drops.

18 MR. HASSINGER: Judge, I'd like the record
19 to reflect he's identified the defendant in this
20 case Mr. Michon Houston.

21 THE COURT: All right.

22 BY MR. HASSINGER:

23 Q. Okay, you see Mr. Houston come out on the porch?

24 A. Yes.

25 Q. What happens next?

1 A. He yelled something towards Mr. Crooks. Mr. Crooks
2 started yelling back at him. Well, actually Mr.
3 Houston stayed on the porch. And as Mr. Crooks was
4 crossing the street, he wasn't going to him, he
5 was going to another house. I guess he didn't see
6 where me and my partner --

7 MR. LANKFORD: Judge, speculation, Your
8 Honor.

9 THE COURT: Sustained. Officer don't tell
10 us what you think was in their minds. Just tell us
11 what you actually saw. Go ahead.

12 MR. HASSINGER: Thank you, Judge.

13 THE WITNESS: As he walked across the
14 street they kept yelling back and forth. They kept
15 yelling back and forth and then Mr. Crooks yelled
16 out there's that mother-fucker right there.

17 BY MR. HASSINGER:

18 Q. Was he pointed at anybody when he said that?

19 A. Yes, he pointed toward Mr. Houston.

20 Q. Where are you at that time when Mr. Crooks says
21 those words?

22 A. Me and my partner are located northeast. We were
23 on opposite side of the street. But east of there
24 at that particular time because we were trying to
25 move up, we didn't want to make ourself

1 conspicuous, but after he yelled out and he looked
2 in our direction we just went on and started
3 closing. We ran towards the house closing the gap.

4 Q. You said he looked in your direction, who are you
5 referring to?

6 A. Mr. Houston.

7 Q. You have badges around your neck; is that what you
8 testified to?

9 A. At that particular time after we were starting we'd
10 be running up identifying ourselves as the police
11 and we pulled out our badges.

12 Q. Okay.

13 So you're actually running towards Mr.
14 Houston at this time?

15 A. Yes.

16 Q. And what words were you saying?

17 A. Detroit Police.

18 Q. What does Mr. Houston do when you're running up
19 towards him saying Detroit Police with your badge
20 out?

21 A. He runs back into the location.

22 Q. Now, tell the jury what's at that location?

23 A. That's a location that is a fenced in four-family
24 flat. It's two up. I guess you would say two up
25 north and south.

1 Q. So there's two flats on the upper level and two
2 flats on the lower level?

3 A. Yes.

4 Q. Once Mr. Houston runs into the front door of that
5 four-family flat, what do you do?

6 A. We didn't get a chance to actually see his hands
7 and because the previous count was FA, we didn't
8 know whether he had a pistol or anything like
9 that. I ran to the rear to secure the location.
10 My partner stayed in front to secure the location.
11 And at that particular time we called for a
12 supervisor.

13 Q. Does a supervisor come to the scene?

14 A. Yes.

15 Q. Did any other police officers come to the scene?

16 A. Yes, several other cars came.

17 Q. Okay.

18 And once you had a supervisor there and
19 other officers there, did you take any further
20 action?

21 A. Yes, we did. First we secured -- we talked to the
22 supervisor and we let her know exactly what we
23 had. The supervisor saw the people that lived in
24 the building, came out of the building, and the
25 landlord of the building, I guess one of the

1 tenants showed up -- I mean had to call him, but he
2 showed up and as we talked to them, they gave us
3 permission to check their particular flat.

4 Q. So did you check the two upper flats at that
5 location?

6 A. Yes, we did.

7 Q. And you did that with the permission of owners of
8 those flats?

9 A. Yes, we did.

10 Q. Okay.

11 Did you find anything in those two upper
12 flats?

13 A. No, we did not.

14 Q. Then there are two lower flats; is that correct?

15 A. Yes, the lower right was unoccupied. The landlord
16 had the keys. He gave us permission to go into
17 there. We checked that too.

18 Q. One of the lower flats, the one to the right was
19 unoccupied? No one was renting that flat?

20 A. Yes.

21 Q. Okay, did you go in that flat?

22 A. Yes, we did.

23 Q. Did you find anything in that flat?

24 A. No, we did not.

25 Q. Okay, so that leaves one lower flat on the left?

1 A. Yes.

2 Q. Okay.

3 Was the person who resided in that flat
4 at the location?

5 A. Yes, he was.

6 Q. Did you talk to that person?

7 A. Yes, after we talked to him he stated that he did
8 not have a key to his door and usually he leaves it
9 unlocked. At that particular time when we checked
10 the door, the door was locked.

11 Q. Okay.

12 So the owner of that location told you he
13 had left the door unlocked?

14 A. Yes.

15 Q. But at this time when you're checking that lower
16 flat, the door is locked?

17 A. Yes, it is.

18 Q. Now, during the course of this are you saying
19 anything to try and find Mr. Houston?

20 A. Yes. We are all the way through. We stating our
21 name and our purpose that we're the Detroit Police
22 and that we were looking for Mr. Houston. You
23 know, asking him to come out and show his hands.

24 Q. Okay.

25 So I just want to be clear to the jury.

1 The whole time you're doing this search of the
2 building in these flats, you are making it loud
3 enough if Mr. Houston wants to he's going to come
4 out?

5 A. Yes.

6 Q. Okay.

7 Did Mr. Houston ever voluntarily come out
8 of any of these flats?

9 A. No, he did not.

10 Q. Okay.

11 So this last flat were the doors locked?
12 Are you able to get in that flat?

13 A. Yes, the doors were locked, but the landlord, he's
14 got the key to the door.

15 Q. Did he have like a master key or something like
16 that?

17 A. Yes.

18 Q. Okay.

19 And does he give you the key or does he
20 personally unlock that flat?

21 A. No, he gives us the key. After we talk to the
22 tenant he gave him permission to give us the key to
23 go into it.

24 Q. Okay, and do you personally unlocked the door?

25 A. Yes, I do.

1 Q. Once you unlock the door, are you able to open the
2 door?

3 A. No, not directly because it had resistance. There
4 was resistance behind the door like somebody was
5 trying to keep the door closed.

6 Q. And again, are you saying stuff at this time?

7 A. Detroit Police.

8 Q. Is there any response?

9 A. No, there is not.

10 Q. What do you do?

11 A. I still yell Detroit Police, turn the key, and then
12 I'm pushing the door feeling the resistance. Then
13 I pushed the door a little bit harder and I stated
14 again, Detroit Police, get back away from the door.

15 Q. What happens then?

16 A. Maybe for a half a second or so, he stayed on the
17 door and then he let the door go and then at that
18 time we went in, put him to the ground and frisked
19 him and handcuffed him.

20 Q. Now, who are you referring to?

21 A. Mr. Houston.

22 Q. The person you identified here in court today?

23 A. Yes.

24 Q. He was placed under arrest at that time?

25 A. Yes, he was.

1 Q. Was anybody else in that particular flat besides
2 Mr. Houston?

3 A. No, there was not.

4 Q. Did Mr. Houston claim he lived in that flat?

5 A. No, he did not.

6 Q. In fact, at some point he gives you an address
7 where he lives; is that correct?

8 A. Yeah.

9 Q. Can you tell us what address Mr. Houston gave you?

10 A. Referring back to my PCR.

11 Q. If that would help refresh your memory.

12 A. 12142 Plainview.

13 Q. So that's obviously not an address on Buena Vista
14 there, correct?

15 A. No, it is not.

16 Q. Mr. Houston is then placed in custody?

17 A. Yes, he is.

18 Q. Do you do any other searching in or around the
19 front of that four-family flat?

20 A. Yes, we do because it was reported that he possibly
21 had had a -- the particular complaint that we were
22 following up on stated that or the information we
23 received that he had a shot gun, a sawed off shot
24 gun and we searched for that particular weapon.

25 Q. Did you recover any weapons?

1 A. No, we did not.

2 Q. Did you recover anything else?

3 A. No, I did not.

4 Q. Did you see anything, other evidence that was
5 recovered from that location?

6 A. I need to refer back to my PCR to make sure I
7 didn't.

8 Q. Would that help refresh your memory?

9 A. Yes, it would.

10 I did not recover anything else. One of
11 the other scout cars recovered some narcotics.

12 Q. Did you see that being recovered?

13 MR. LANKFORD: Objection, relevance, Your
14 Honor.

15 THE COURT: Did he see it being recovered
16 is relevant, so I'll have to overrule the
17 objection.

18 THE WITNESS: No, I did not.

19 THE COURT: If any information is
20 stricken, the jury's totally to disregard it. It's
21 hearsay.

22 MR. HASSINGER: Thank you, Your Honor.

23 BY MR. HASSINGER:

24 Q. Sir, I'd like to then take you to November 13th,
25 2002. I believe that would be a Wednesday around

1 9:15 in the a.m. Sir, do you recall if you had
2 contact again that day with Laverio Crooks?

3 A. Yes.

4 Q. And why did you have contact with Mr. Crooks on
5 that day?

6 A. After this particular arrest, we had received some
7 information that there had been a shooting done at
8 that particular area. A homicide had taken place
9 and that possibly --

10 MR. LANKFORD: Objection, speculation,
11 plus, I don't see any relevance after Mr. Houston's
12 arrest, Your Honor.

13 THE COURT: I'm going to have to sustain
14 the objection unless the Prosecutor can come over
15 and give me an offer of proof.

16 MR. HASSINGER: Judge, I just wanted to
17 establish basically that he had contact with Mr.
18 Crooks.

19 THE COURT: Well, you got that.

20 MR. HASSINGER: Thank you, Judge.

21 THE COURT: All right. Anything else?

22 MR. HASSINGER: Not on behalf of the
23 People, Judge.

24 THE COURT: Cross-examination.

25 CROSS-EXAMINATION

1 BY MR. LANKFORD:

2 Q. Sir, you go out there -- officer Adams, good
3 morning?

4 A. Good morning.

5 Q. You go out there following up on the allegation
6 made by Mr. Crooks, correct?

7 A. No, actually what we went, the original was that it
8 was -- are you talking about the original arrest?

9 Q. Well, when you go out -- I'm sorry, let me back
10 up. On the date that you go out and meet with Mr.
11 Crooks?

12 A. Yes.

13 Q. That's in response to a complaint that has been
14 filed by Mr. Crooks?

15 A. Yes.

16 Q. Okay.

17 And as part of that you were leery or at
18 least observant regarding the presence of any
19 firearm, correct, sir?

20 A. Yes.

21 Q. Okay.

22 Now what happened then you found no
23 firearm, did you, sir?

24 A. No, we did not.

25 Q. Okay.

1 No shot gun, no 40 caliber semi anything
2 like that, right, sir?

3 A. No.

4 Q. Okay.

5 When you go out there, I mean this a high
6 crime area, correct, sir?

7 A. Very much so.

8 Q. Mr. Crooks appears to live in that neighborhood,
9 right?

10 A. Well, yeah, he frequents that area. I've seen him
11 there before.

12 Q. Okay, sure you said, yeah, right as part of an
13 officer you've seen him there before. Okay.

14 Were you aware that Mr. Crooks had been
15 questioned three times by detectives with regard to
16 the homicide in September, were you aware of that
17 at the time you went out?

18 A. No, I was not.

19 Q. Okay.

20 And it would be obvious here that -- I
21 mean, you're in plain clothes, right, sir?

22 A. Yes.

23 Q. You and your partner. And I assume that means not
24 only would you have a blue uniform with a badge on,
25 but you wouldn't be dressed the way you and I are

1 today either, correct?

2 A. No.

3 Q. You're wearing more blue jeans, a sweat shirt a
4 jacket, that type of thing?

5 A. Yes.

6 Q. You want to mix in, right?

7 A. Yes.

8 Q. You want to be inconspicuous, correct?

9 A. Yes.

10 Q. Okay.

11 And Mr. Houston you indicated fled into
12 that location, okay, once you and your partner
13 Officer Oliva Moss attempt to approach him, right?

14 A. Yes.

15 Q. And what happens when this all occurs, your attempt
16 to approach Mr. Houston occurs after Mr. Crooks and
17 Mr. Houston have exchanged words, right?

18 A. Yes.

19 Q. Okay, fairly loud aggressive words, right?

20 A. Yes.

21 Q. Including Mr. Crooks saying basically there's that
22 MF right there, right?

23 A. Yes.

24 Q. And at that point would it be fair to say that you
25 and your partner start moving over rapidly,

1 correct?

2 A. Correct.

3 MR. LANKFORD: Okay, nothing else.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MR. HASSINGER:

7 Q. And when you're approaching Mr. Houston rapidly
8 because you're in plain clothes, what are you
9 doing?

10 A. Pull my badge so that he could see it, and also I
11 stated that I was the Detroit Police.

12 Q. And did you say it just like you said it here in
13 court today I'm Detroit Police?

14 A. No, I did not. I said it very loud so that he
15 would hear me very clearly.

16 Q. And that was being said during the course of this
17 entire search?

18 A. Very much so.

19 MR. HASSINGER: Thank you. Thank you,
20 Judge.

21 THE COURT: Re-cross, limit to what was
22 brought out on redirect only.

23 MR. LANKFORD: Sure.

24 RECROSS-EXAMINATION

25 BY MR. LANKFORD:

1 Q. But the badge is just, I mean, it's just hanging
2 down from your neck on a cord, right?

3 A. Yes.

4 Q. And you have -- I mean, you are aware of a some
5 things such as false identifications, I'm a police
6 officer when I'm not, right, sir?

7 A. Correct.

8 MR. LANKFORD: Okay, thank you, nothing
9 else.

10 THE COURT: One last question, Your Honor.

11 THE COURT: Well, all right, then I have
12 to give him another opportunity.

13 MR. HASSINGER: I understand, Judge, I'm
14 sorry.

15 REDIRECT EXAMINATION

16 BY MR. HASSINGER:

17 Q. Other officers come to this scene?

18 A. Yes.

19 Q. Are they in full uniform?

20 A. Yes, they are.

21 Q. Are there marked scout cars out there on the
22 street?

23 A. Yes, there is.

24 MR. HASSINGER: Thank you, Judge.

25 THE COURT: Okay, go ahead, counsel

RECROSS-EXAMINATION

BY MR. LANKFORD:

Q. All of that happens after Mr. Houston has gone inside of that location, right, sir?

A. Yes.

MR. LANKFORD: Okay, nothing else. Thank you.

THE COURT: We thank and excuse the witness. You're free to go. Are you ready to call your next witness?

MR. HASSINGER: Yes, Judge. Actually, Judge, defense counsel and I would like to do with the court's permission is to enter into a stipulation at this time.

THE COURT: All right.

MR. HASSINGER: Judge, that stipulation would be that on September 6th of last year, 2002 the Defendant, Michon Houston was ineligible to possess or use or carry a firearm because he had been convicted of a specified felony punishable by imprisonment for four more years and the requirements for gaining eligibility had not been met.

MR. LANKFORD: Agreed, Your Honor.

THE COURT: All right.

MR. HASSINGER: Judge, and at this time

1 the People would move to waive several endorsed
2 witnesses from the People's witness list.

3 THE COURT: Go ahead.

4 MR. HASSINGER: Thank you, Judge. We'd
5 like to waive and thank and excuse police officer
6 Fred McIntyre.

7 THE COURT: Do you agree to that waiver?

8 MR. LANKFORD: I do, Your Honor.

9 THE COURT: Okay. Accumulative testimony,
10 is that it?

11 MR. LANKFORD: Absolutely.

12 MR. HASSINGER: Exactly, Judge. He was
13 the partner of Officer Williams who testified this
14 morning.

15 We'd like to thank, waive and excuse
16 police Officer Daniel Sitarski. He was the partner
17 of the officer who conveyed the clothing.

18 MR. LANKFORD: Bastianelli.

19 MR. HASSINGER: Bastianelli, correct, so
20 he would accumulative.

21 THE COURT: All right.

22 MR. LANKFORD: Agreed.

23 MR. HASSINGER: We'd like to waive
24 Investigator Olson from Detroit Homicide. He
25 simply would say he took statements from certain

1 witnesses.

2 MR. LANKFORD: Agreed.

3 THE COURT: All right.

4 MR. HASSINGER: We'd like to waive
5 Christina Eshelman who's endorsed on the witness
6 list, Judge.

7 MR. LANKFORD: Agreed, Your Honor.

8 THE COURT: She was the partner of someone
9 or you're just waiving?

10 MR. HASSINGER: No, she's a civilian,
11 Judge.

12 THE COURT: Oh, that's a civilian and
13 you've agreed to that?

14 MR. LANKFORD: Yes, Your Honor.

15 THE COURT: Accumulative testimony, all
16 right.

17 MR. HASSINGER: And finally, Judge, we've
18 endorsed a representative of Third Circuit Court
19 and also Lisa Westwood, but the stipulation that we
20 just entered into negates the need to call those
21 witnesses, Judge.

22 THE COURT: Okay.

23 MR. LANKFORD: I'd agree, Your Honor.

24 MR. HASSINGER: And then finally, Your
25 Honor, we just heard from Officer Charles Adams.

1 His partner is Oliva Moss. She's present, but
2 again I believe the testimony you would hear from
3 her would be identical to what Officer Adams just
4 testified to. The People would move to waive
5 Officer Moss.

6 MR. LANKFORD: No objection. I agree with
7 that statement.

8 THE COURT: All right.

9 MR. HASSINGER: Finally, Judge, the
10 officer in charge is endorsed. He's present. The
11 People would move to waive him from the People's
12 case.

13 THE COURT: Because he'd have nothing to
14 add?

15 MR. HASSINGER: Basically, Judge, that's
16 correct.

17 THE COURT: Okay, all right, and there's
18 no objection.

19 MR. LANKFORD: Correct.

20 MR. HASSINGER: Judge, unless I missed
21 anybody on the witness list, I do not believe I
22 have -- the People have exhausted their witnesses
23 that are endorsed and the People would rest.

24 THE COURT: Okay, and because I also have
25 Exhibits Number One through have been admitted into

1 evidence, right?

2 MR. HASSINGER: That was my understanding,
3 Judge. I did want to make sure that the Court was
4 agreeing with me on that.

5 THE COURT: Right. Okay. At this time we
6 will let our jurors because there some people who
7 were able to get here at 9:00. Why don't we let
8 them take a coffee break because there's some
9 matters we can take care of and then I think we'll
10 be hearing the conclusion of this case.

11 We'll rise for you to take a 20 minute
12 coffee break. Please, be outside to the courtroom
13 door at ten minutes to the hour by that clock.

14 THE CLERK: All rise.

15 (Jury exits courtroom)

16 THE COURT: I can't see any motion to make
17 at this point either.

18 MR. LANKFORD: Right, you know, I would
19 however like to make a record. Two quick things.

20 THE COURT: Go ahead.

21 MR. LANKFORD: The first one is --

22 THE COURT: And that's right, you better
23 get your officer in charge back here. Go ahead,
24 counsel. You're not going to need him for this? I
25 thought it was about the witness that you asked

1 them to get.

2 MR. LANKFORD: I'll make a record with
3 regards to that. And I'd like to voir dire
4 Mr. Houston, if I may.

5 THE COURT: Okay, we'll wait until he gets
6 the officer because you're going to need him.

7 MR. LANKFORD: Okay.

8 THE COURT: All right, counsel, go ahead
9 first of all and voir dire your client if that's
10 what you wanted to do.

11 MR. LANKFORD: Thank you.

12 Mr. Houston, if you stand please, sir.
13 Sir, do you understand that the People now have
14 rested; in other words their case is done in its
15 entirety as far as any production of witnesses or
16 evidence?

17 DEFENDANT HOUSTON: Yes.

18 MR. LANKFORD: And I explained to you that
19 at this point we would have the opportunity to call
20 any witnesses on our behalf if we wanted too,
21 right?

22 DEFENDANT HOUSTON: Yes.

23 MR. LANKFORD: And I explained to you
24 specifically that you have the right to take the
25 stand and testify on your own behalf, correct?

1 DEFENDANT HOUSTON: Right.

2 MR. LANKFORD: The absolute right to do
3 that?

4 DEFENDANT HOUSTON: Right.

5 MR. LANKFORD: And in addition, you have
6 the absolute right not to take the stand if you so
7 desire, right?

8 DEFENDANT HOUSTON: Right.

9 MR. LANKFORD: If you take the stand, sir,
10 you'd be subject to cross-examination on the same
11 standards regarding credibility as any other
12 witness?

13 DEFENDANT HOUSTON: Right.

14 MR. LANKFORD: If, however, you elected
15 not to take the stand, this Judge would specifically
16 inform the jury that they may not hold that against
17 you in any way; do you understand all of that?

18 DEFENDANT HOUSTON: Yes.

19 MR. LANKFORD: In addition, we have
20 discussed some of the proofs that have come out
21 during the course of this testimony?

22 DEFENDANT HOUSTON: Yes.

23 MR. LANKFORD: And you've been satisfied
24 with the discussion that we've had?

25 DEFENDANT HOUSTON: Right.

1 MR. LANKFORD: And you have indicated to
2 me earlier today that your choice was not to take
3 the stand; is that correct?

4 DEFENDANT HOUSTON: Right.

5 MR. LANKFORD: Okay.

6 THE COURT: And that is still your choice
7 not to testify?

8 DEFENDANT HOUSTON: Yes, yes.

9 THE COURT: Okay, very good. He may be
10 seated.

11 MR. LANKFORD: Thank you.

12 THE COURT: All right, now, you did have a
13 witness you tried to get -- go ahead.

14 MR. LANKFORD: Yes, just briefly as the
15 court's well aware of, there had been an order for
16 assistance beyond a subpoena subsequent to actually
17 they were going to get a bench warrant. That was
18 issued on Thursday. I know we were here Friday. I
19 did talk with Sergeant Marshall, they've been
20 unable to procure that witness. They have as I
21 understand that they continued to look over the
22 weekend.

23 Still have not procured her. I do think
24 she is valuable to the defense. I guess I'm not
25 sure -- I guess, I don't know whether additional

1 time would assist in procuring that person or not,
2 and I have no reason to believe that there hasn't
3 been a diligent effort, but I would ask that those
4 efforts continue.

5 THE COURT: Well, counsel, I will say that
6 the one thing that I thought about on Friday as I
7 stood in the hospital calling back here to find out
8 was whether they got the witness and I was informed
9 they didn't. I said, well, great tell them they
10 got the whole weekend.

11 So it was really like you had the
12 adjournment to get the witness. I don't think any
13 additional time is going to be -- because
14 as I understand it as an officer of the court, I
15 heard from the prosecutor that she gave a false
16 name.

17 MR. HASSINGER: Judge, that's absolutely
18 correct. Sergeant Marshall, in fact, called me at
19 my home last night. They've been making efforts
20 all weekend, but what they did find out from going
21 back to that location is that from talking to other
22 witnesses there that, in fact, the witness gave a
23 false name when she gave a statement to the police.
24 And we have no way to even determining what her
25 true identity is.

1 Sergeant Marshall is here if we need take
2 testimony to that fact, but that is what he has
3 conveyed to me. And I know they were out there all
4 weekend trying to find that witness.

5 THE COURT: I will also say this because
6 I had to issue a detainer, witness detainer for two
7 of the main witnesses in this case. And I think I
8 did that one day and the very next day you had all
9 of those persons here, so I know that they have
10 been trying very hard to get all of the witnesses
11 here.

12 Unless counsel is going to demand, I'm
13 going to take your word as an officer of the court
14 that they have determined this woman gave a false
15 name and we have no place to go with it.

16 MR. LANKFORD: And I will, I mean I feel
17 I had to make the request on behalf of Mr. Houston
18 as his attorney. But I also am aware of the fact
19 that I have no reason to disbelieve that they tried
20 their best. I also do note that they weren't able
21 to find Ms. Watson who may have been helpful.

22 Apparently, they were making the same
23 type of efforts with regards to Ms. Eshelman who
24 could have been helpful to the prosecution.

25 THE COURT: And they didn't find her

1 either.

2 MR. LANKFORD: And they didn't find her.

3 MR. HASSINGER: That's correct, Judge.

4 THE COURT: All right, okay. Then are you
5 going to put in any evidence?

6 MR. LANKFORD: No. Defense will rest
7 formally.

8 THE COURT: I pulled the following
9 instructions. Have seats. I intend to give these
10 and, of course, if you make proper objections I'll
11 omit any. If you make a proper request, I'll
12 include any others.

13 We're going to give Judge and Jury,
14 Presumption of Innocence, Burden of Proof,
15 Reasonable Doubt, Defendant Not Testifying,
16 Evidence, Weighing Conflicting Evidence, Number of
17 Witnesses, Circumstantial Evidence, Motive,
18 Stipulation, Flight, Witness Credibility, Witness
19 Who Has Been Interviewed By a Lawyer, Expert
20 Witness, Police Witness, Impeachment Brought By
21 Prior Inconsistent Statements. And that was both
22 Mr. -- well, wait a minute, I got to go back.

23 I remember you're asking him about things
24 that they did not say which you can argue in their
25 statements, they didn't put in their statement.

1 But I'm going back, I don't see any actual
2 impeachment of either Jovan Johnson and Laverio
3 Crooks. Let me get to their testimony.

4 Laverio Crooks, I don't have anything.

5 MR. LANKFORD: I'd agree with Mr. Crooks.

6 THE COURT: I don't have anything on Jovan
7 Johnson.

8 MR. LANKFORD: Your Honor, Mr. Johnson
9 did -- there was one off a preliminary exam
10 transcript with regards to what he felt he may have
11 been charged with.

12 THE COURT: Oh, okay, Jovan Johnson.

13 MR. LANKFORD: So I agree with regards to
14 Crooks that there some things that weren't included,
15 but Johnson was different at least as to that.

16 THE COURT: Okay, let me put that down.
17 And that was from the preliminary examination, so,
18 I will however if the witness testified that the
19 earlier statement was true or if the earlier
20 inconsistent was given under oath subject to the
21 penalty of perjury at a trial or hearing it may be
22 considered as proof of the facts in this case.

23 MR. LANKFORD: Thank you.

24 THE COURT: First Degree Premeditated
25 Murder, Specific Intent, Felon Possessing a

1 Firearm, Possession of a Firearm at the Commission
2 or Attempt to Commit a Felony, Deliberations and
3 Verdict, Communications with the Court, Penalty,
4 Exhibits.

5 Now, I assume that you're also going to
6 want something more on Inferring and Intent.

7 MR. HASSINGER: Yes, Judge.

8 THE COURT: Other than Inferring, State of
9 Mind, is there anything else?

10 MR. HASSINGER: No, that's the one that
11 the People request, Your Honor.

12 MR. LANKFORD: Your Honor, with regards
13 to --

14 THE COURT: Hold on one moment.

15 MR. LANKFORD: Okay.

16 THE COURT: I keep telling you I can only
17 do one thing at a time. All right.

18 MR. LANKFORD: Judge, one last thing not
19 that I would be arguing second degree murder. I
20 know that for years that had to be given even if I
21 objected. Last year they came up with a case, it's
22 just muddled the water to say the least. I read
23 and reread it and quite frankly still can't make
24 heads or tails.

25 THE COURT: I can't figure it out either.

1 But I want to hear what the People have to say.
2 Are you going to object to my giving Second Degree
3 Murder?

4 MR. HASSINGER: No.

5 THE COURT: Then I'm going to give it
6 because I still don't understand about that opinion
7 and it seems to me that I'm seeing weirder and
8 weirder opinions coming out of the Court of Appeals
9 because I've gotten a slue of unpublished opinions
10 that say that probation violations are not subject
11 to the guidelines.

12 And I have a lawyer who did an appeal and
13 he has an opinion from the Court of Appeals that
14 says that they are subject to the guidelines.

15 Now, apparently nobody up there at the
16 Court of Appeals has recognized that there is at
17 least a conflict among the panel because nobody
18 certified it, so I don't know what's going on with
19 them anymore. So I'm going to give second degree
20 murder.

21 MR. LANKFORD: If I can I guess it's just
22 a little editorializing. They took what appeared
23 to have been a perfectly workable rule for years on
24 lessors, I got no idea what they're doing.

25 THE COURT: I agree. Okay, anything

1 else?

2 MR. LANKFORD: No, I think the court has
3 covered it from defense prospective. Thank you.

4 MR. HASSINGER: And also from the
5 People's, Judge.

6 THE COURT: Okay. We'll start again in
7 ten minutes -- well, we're going to give court
8 reporter and I a couple minutes more than that, so
9 let's make it and you be ready at 11:00 to do your
10 openings. Okay, 11:00 o'clock.

11 (Court is in recess.)

12 (Court reconvenes.)

13 (Jury enters courtroom.)

14 THE COURT: You may be seated. May I have
15 a stipulation that all of our jurors are here
16 and in their proper places?

17 MR. HASSINGER: So stipulate, Your Honor.

18 MR. LANKFORD: Yes, we do.

19 THE COURT: Ladies and gentlemen, I'm
20 going to remind you may not discuss this case among
21 yourselves nor with anyone until I send you to the
22 jury room after you've had your final instructions
23 and tell you to begin discussing this case. Don't
24 discuss this case at all until that time.

25 Does the defense wish to put in any

1 evidence?

2 MR. LANKFORD: No, Your Honor, defense
3 rests.

4 THE COURT: Are the People ready to
5 proceed with closing?

6 MR. HASSINGER: Ready, Judge.

7 THE COURT: You may.

8 MR. HASSINGER: Good morning, ladies and
9 gentlemen of the jury. As the Judge just indicated
10 to you, this is my opportunity to give my closing
11 statement to you. Before I do that I'd like to
12 thank each and every one of you for being down
13 here, being prompt in this horrible weather to try
14 and get down here today. You're all here. You're
15 ready to go. You've been paying attention to this
16 case. I've been watching you. I know you have
17 been trying your best to listen to the evidence and
18 understand what's going on here and I appreciate
19 that. I appreciate that on behalf of the People of
20 the State of Michigan, who I represent. I appreciate
21 that on behalf of the family of Carlton Thomas.
22 They appreciate the fact that you're all here. And
23 even Mr. Houston appreciates it, so we all thank
24 you for being here. For taking the time out your
25 lives to be jurors in this case.

1 Like I told you in my opening statement,
2 we all have things we'd rather be doing these last
3 three days we've been together so, and on behalf of
4 the officer in charge Sergeant Marshall, he thanks
5 you also. A lot of work and effort had gone into
6 this case. So thank you very much for being here.

7 Again, I want to talk to you a little bit
8 about evidence and charges, and then get into the
9 actual facts of the case. The evidence in this case
10 is the testimony you heard from witnesses. The
11 Judge is going to tell you that attorney's
12 questions are not evidence. Our statements to you
13 are not evidence. The evidence is the testimony
14 you heard from the witness.

15 The other evidence you have that's been
16 introduced is our diagram that the medical examiner
17 testified to. Our sketch of scene. And then we
18 have seven pictures that were admitted into
19 evidence. So you got nine pieces of evidence along
20 with the testimony you heard from witness stand.

21 And your job is to put all of that
22 together and then to tell us with your verdict what
23 happened back on September 6th of last year.

24 Carlton Thomas was shot four times and
25 died as a result of those gun shots wounds.

1 Somebody committed a cold blooded first degree
2 murder. There's no doubt about it. No doubt about
3 the fact that Mr. Thomas is now dead. Somebody shot
4 him four times for no reason. There was no reason
5 to kill Mr. Thomas. What was his big crime.

6 Well, okay, he was going over there
7 to buy some cocaine. But that doesn't give anyone
8 the right to be his judge, jury, and executioner
9 like Mr. Houston that day.

10 This man was his judge, jury, and
11 executioner. Why. Because Mr. Thomas didn't want to
12 buy his cocaine from Mr. Houston. That's why he
13 lost his life back on that day. Laying in that
14 field.

15 Ladies and gentlemen of the jury, I told
16 you right from the beginning I said this case is
17 about drugs, it's about drug dealers, its about
18 guns, it's about violence, and it's about that
19 whole underworld that unfortunately is going on, on
20 a daily basis over there on west Buena Vista and
21 Linwood. Okay.

22 You heard from the officers who patrol
23 that scene regularly. This is life in that
24 neighborhood. This is what the people who live in
25 that neighborhood have to put up with on a daily

1 basis. And I told you right from the get go when a
2 crime like this occurs, the witnesses to this crime
3 are going to be the same type of people who are
4 caught up in that environment.

5 Who did we have in this particular case.
6 JW, Jovan Johnson, County, Laverro Crooks. And they
7 both got up on the stand and they admitted to you,
8 they didn't lie about it. They admitted to you,
9 yeah, they're over there grinding on a daily
10 basis. What does grinding mean, they're out there
11 dealing drugs.

12 They get up there and they admit that
13 they're doing that on a daily basis. And all the
14 grinders out there know each other. They've got a
15 code of honor basically. You heard it from these
16 witnesses. You know, they got a code. They don't
17 tell on each other. They look out for each other.

18 In fact, Jovan Johnson told you, hey,
19 there's enough business for all of us. We can all
20 make a living out here grinding. There's no reason
21 to be going after one another. There's plenty of
22 business for all of us out here.

23 They don't fight over customers. They
24 tell you there were customers coming up and down
25 that street all the morning of September 6th,

1 2002. They're all businessmen basically. They're
2 businessmen conducting their business over there on
3 west Buena Vista. They all know each other. And
4 they all know if you start talking to other people
5 and telling on people that you're not going to be
6 able to conduct your business over there on west
7 Buena Vista.

8 So you got to sort of get in that type of
9 mind set. You have to sort of put yourself in the
10 shoes of these people who are out there conducting
11 their business and how they go about it. And why
12 they do what they do.

13 You have to use your common sense and
14 your reasoning. Okay. And I know none of you are
15 caught up in this life-style or this type of circle
16 of violence, but you have to think a moment like
17 people do when they are out there.

18 So let's go back to September 6th. Let's
19 talk a little bit about what happened. Carlton
20 Thomas comes walking through the field. And again,
21 everybody knows anyone who comes to that
22 neighborhood is there to buy drugs. Both Jovan
23 Johnson and Mr. Houston yelled to him from the
24 porch they're up on. Say, what's up. What do you
25 need. What do you want. Mr. Houston runs over to

1 him and he has a conversation with Mr. Thomas.

2 And Mr. Thomas tells him, I don't want to
3 deal with you. I'll spend my money the way I want
4 to spend my money. And that enrages Mr. Houston.
5 This is his neighborhood. He doesn't want to be
6 turned down. And what does he do, he goes and gets
7 his gun. And he fires one shot from a distance at
8 Mr. Thomas.

9 And I put forward all the evidence in
10 this case especially what you heard from the
11 medical examiner that first shot from a distance is
12 the shot that hit Mr. Thomas in the head. Mr.
13 Thomas was perhaps running towards these trees from
14 this trail.

15 Okay. He's running perhaps in this
16 direction. A shot is fired from this direction. It
17 hits him here. Exits. Then has another entrance
18 right here. The medical examiner told you that was
19 consistent with what he saw on Mr. Thomas when he
20 examined him.

21 Mr. Thomas falls. And, in fact, he falls
22 where that blood is on the map, on our diagram. You
23 know that because Mr. Crooks tells you he falls
24 face first. And that's going to be important.
25 Okay. All these little things are going to be

1 important. They're all going to add up.

2 He falls face forward, and that's how we
3 get this blood out there that the evidence tech
4 takes a picture of, and it's admitted into
5 evidence.

6 Mr. Crooks then tells you that Mr.
7 Houston goes up to him, flips the body over, okay,
8 so the body's going to be a foot, foot and a half
9 away from the blood now. Stands over him and
10 shoots him at least three more times.

11 And the medical examiner told you that
12 those other three shots, the shot to the leg below
13 the knee, and gun shot wounds two and three were
14 consistent with somebody standing above you and
15 shooting. It all fits together. It all makes
16 sense.

17 Mr. Houston comes up after he shot him
18 the first time, turns him over, and shoots him
19 three more times. Standing above.

20 (Disruption in courtroom)

21 THE COURT: You'll have to leave the
22 courtroom.

23 MR. HASSINGER: Mr. Houston goes back
24 across the street to JW, Jovan Johnson. Tells him
25 go back over and see if he's dead. Jovan Johnson

1 doesn't want to do it. Some words are exchanged.
2 Jovan Johnson does it. He goes back over there Mr.
3 Thomas is still alive at that point but Mr. Johnson
4 goes back and says he's dead, he's dead, and that's
5 when they leave the scene.

6 Mr. Crooks who's seated in a car about
7 this location. He's on the other side of the
8 debris pile. He's sitting out rolling too. He
9 observes all this from right here in this
10 location. You can see the porch over here.
11 There's a street light here. He can see what's
12 going on right here. And, in fact, there's a very
13 good picture of exactly what his line-of-sight
14 would be.

15 Just for the record and for you people,
16 that picture is Exhibit Number 4, because Exhibit
17 Number four shows the debris pile. You can see a
18 police car that's parked a little bit west of
19 debris pile. You can see what Mr. Crooks'
20 line-of-sight would have been.

21 That's exactly his view. He can see
22 everything that's happening. He can hear the words
23 that are being spoken because he's out there
24 rolling too.

25 In fact, Mr. Crooks sees that when the

1 defendant gets -- excuse me, when Mr. Thomas gets
2 rolled over that Mr. Houston goes through his
3 pockets and takes his money. That's important too.
4 Okay. Mr. Houston takes his money.

5 That's what happened back on September 6
6 of last year when Mr. Thomas lost his life. This is
7 the man responsible. Right here. And I'm asking
8 you to hold him accountable for what he did. None
9 of us made him do anything. Hold him accountable
10 for his actions. That's what I'm asking you to do.
11 I'm asking you to come back and find him guilty of
12 first degree murder.

13 This is premeditated, deliberate killing
14 of another human being. He shot him not once. He
15 reflects about what he wants to do. He goes over to
16 Mr. Thomas, he turns him over, he stands over him
17 thinks about what he wants to do and he puts three
18 more rounds in him. That's first degree premeditated
19 deliberate willful killing of another human being
20 without justification or excuse. No good reason.
21 Senseless. It's ridiculous.

22 The evidence in this case from all the
23 witnesses is that Mr. Houston is the man who pulled
24 the trigger.

25 Now, I'm not asking you to like Laverro

1 Crooks and Jovan Johnson. But I'm asking you to
2 believe them based on their testimony and all the
3 evidence in this case. Just because they're drug
4 dealers doesn't mean they're liars. If they wanted
5 to lie are they going to get up on the stand and
6 admit their drug dealers. Doesn't make any sense.

7 Why would they lie to set up Mr.
8 Houston. I guess that's the real issue in this
9 case because Mr. Lankford's going to get up and
10 address you. And he's basically going to imply to
11 you that these witnesses that are coming in here
12 and perjuring themselves to setup Mr. Houston on
13 something he didn't do. Okay. Now, why would they
14 do this. What's the argument.

15 Well, Mr. Crooks waits two months before
16 he reports this. Okay. And why does he report it.
17 He told you why he reported it. Because Mr.
18 Houston started to come after him. And he told you
19 from the witness stand that he realized that when
20 Mr. Houston started to come after him, it was
21 either going to be him or Mr. Houston. One of them
22 was going to have to die.

23 He chose a third option. He decided,
24 well, at this point I'll get the police involved
25 because he didn't want to have to kill Mr. Houston,

1 and he certainly didn't want Mr. Houston killing
2 him.

3 Now, does that make sense. Is that
4 enough reason to break the code of west Buena Vista
5 and Linwood. I put forward it's probably about the
6 only reason for breaking the code, because you're
7 going to lose your life unless you break the code.
8 They're all making good money over there. They're
9 all conducting their business over there. The only
10 reason you break the code is if you're going
11 to lose your life.

12 Mr. Johnson is slightly different though
13 because Mr. Johnson gets locked up in the county
14 and at this time when he's in the County locked up
15 on his dope case, on his drug case, the police have
16 already talked to Laverro Crooks. And Laverro Crooks
17 have already told the police who else was out
18 there. Jovan Johnson was out there. So the police
19 know from Laverro Crooks that Mr. Johnson is a
20 witness.

21 So what do they do. They get him out of
22 the county jail and sit down and talked with him
23 and they tell him we know you were there. You're
24 either a defendant or you're a witness. What do
25 you want to be.

1 And that's when Mr. Johnson begrudgingly
2 also breaks the code because he's afraid that the
3 police might be looking at him if he doesn't
4 cooperate and tell the truth about who killed
5 Carlton Thomas. That's why he breaks the code.

6 He's caught. The police know he's
7 there. They're confronting him with the facts and
8 he rolls on his friend Mr. Houston. Remember, Mr.
9 Johnson and Mr. Houston and Mr. Houston's
10 girlfriend they went to the motorcycle club. They
11 have been drinking. These are the guys that he
12 hangs out with. These are his friends. But Mr.
13 Johnson had to overcome his friendship. He told
14 you, I didn't want any part of this case. This is
15 my friend. I don't want to come in and testify. I
16 wasn't going to cooperate.

17 He's here to testify on his friend and he
18 tells you who pulls the trigger. His friend Mr.
19 Michon Houston is the trigger man. That's what you
20 folks have to deal with. That's why I told you up
21 front, these people are drug dealers. You won't
22 like them, but they're telling the truth. Based on
23 all evidence you know they are.

24 How in the world would Mr. Crooks know
25 the victim was shot in the face unless he was

1 there. He can't just guess and make that up. How
2 would he know that there would be this spot of
3 blood and then the body had been rolled over. How
4 would he know that unless he was there.

5 Is there any other evidence that was put
6 before you to explain how he would know all the
7 circumstances of this crime unless he was there and
8 witnessed it. There is none. There's no other
9 explanation. None. The explanation is he was
10 there and he witnessed the crime.

11 Now, Mr. Lankford's going to get up and
12 tell you tell you, yeah, but there's differences
13 between what Mr. Johnson told you and what Mr.
14 Crooks told you. And there are. There's about
15 three significant differences and we're going to
16 go through those.

17 But the question is does that mean Mr.
18 Thomas wasn't murdered. Does that mean Mr. Houston
19 didn't shoot him because there's some differences
20 between Mr. Crooks and Mr. Johnson's testimony. We
21 still have somebody who's been murdered, ladies and
22 gentlemen. And the thing is their testimony is
23 consistent about is who pulled the trigger, and
24 that's really the only issue in this case. Who
25 pulled the trigger. We know somebody was murdered.

1 The only question is who pulled that trigger.

2 Now, why are there differences between
3 the testimony of Mr. Crooks and Mr. Johnson. I
4 think you can figure out from the record that Mr.
5 Johnson, even though he's telling you who the
6 shooter is still doesn't want to really add in
7 every little detail because he's trying to protect
8 his friend to a certain extent. All right.

9 It's worse if he says that Mr. Houston
10 turned the victim over and shot him some more and
11 took his money. That's how Mr. Johnson thinks.
12 That's the way his mind works. It's worse to have
13 to give up all those other details that Mr. Houston
14 had to run and get a gun. Okay. It makes Mr.
15 Michon Houston's actions seem even more egregious,
16 even more severe.

17 So yeah, there are some slight
18 differences in the testimony. There are in every
19 case. The Judge is going to give you an
20 instruction, in fact. The Judge is going to tell
21 you that people see and hear and remember things
22 differently. Okay.

23 You might be at the same event with
24 another person and they might remember it slightly
25 differently than you. That doesn't mean they're

1 lying. The Judge is going to tell you that.
2 That's the way the human mind works.

3 You can accept or reject anything a
4 witness tells you from that witness stand if it
5 doesn't agree with the other facts and evidence in
6 this case. The issue in this case is very narrow
7 and very limited. Who pulled the trigger. There is
8 Mr. Michon Houston. He's the man who pulled the
9 trigger, so he's guilty and he's guilty of First
10 Degree Premeditated Murder. That's what he did to
11 Mr. Thomas.

12 But he's also guilty of two more counts.
13 He's guilty of being a felon in possession of a
14 firearm for shooting Mr. Thomas. He's also guilty
15 of what's called felony firearm. That's for
16 possessing a weapon when you commit a crime. Those
17 two counts are easy. Obviously you've heard the
18 evidence from the medical examiner Mr. Thomas was
19 shot. Okay. Whoever did this had a firearm. So
20 those two counts are easy.

21 When I made my opening statement on
22 Thursday I told you what I believed the evidence
23 would be and what you'd hear from that witness
24 stand. Quite frankly I think it came out pretty
25 much exactly like I told you it would come out.

1 Ladies and gentlemen, I'm asking you to
2 consider all the evidence in this particular case,
3 to come back with three counts of guilty as
4 charged, because that's the right thing to do,
5 because that's what happened, and Mr. Houston
6 should be held accountable for his actions.

7 We had two eye witnesses to this crime
8 who came in here, raised their hand, swore to tell
9 the truth about who killed Mr. Thomas. And they
10 got up there on the stand and I asked both of them,
11 the last question I asked both of them is, now are
12 you coming in here and committing perjury. They
13 told you no. They're not doing that.

14 These people told you the truth. They're
15 honest. They admitted they're out there grinding
16 all day long, selling drugs out there on west Buena
17 Vista. There's a code they live by, and they told
18 you why they violated the code.

19 Ladies and gentlemen, come back with one
20 Count of First Degree Premeditated Murder. One
21 Count of Felon in Possession of a Firearm, and one
22 Count of Felony Firearm.

23 Thank you very much.

24 THE COURT: Defense closing.

25 MR. LANKFORD: Thank you.

1 Good morning once again, ladies and
2 gentlemen of the jury. Murder cases are always
3 extremely difficult even for people that routinely
4 deal with it, because you have a person who's dead.
5 The more serious thing you can do to a person.
6 There's a natural inclination to want to make
7 somebody pay for that mistake. Logically it's
8 understandable.

9 But what has come in the last few days in
10 this case when you start with the presumption of
11 innocence and burden of proof and if that's beyond
12 a reasonable doubt, they don't have a case.

13 Something that keeps going through my
14 mind over and over in this case. And during the
15 course of this is why, why is Mr. Houston a better
16 suspect than Mr. Johnson or Mr. Crooks, because
17 they say so. I'm talking about they say. You know
18 there's a code out there. The code is called look
19 out for number one. Always, first and foremost,
20 you look out for number one. Everybody else can
21 take care of themselves. That's the code.

22 The alleged code you see on old movies,
23 maybe they existed when I was a teenager. And now,
24 look out for number one. That's the code.

25 You know, starting off I'm going to try

1 and keep it organized. I get nervous when I start
2 seeing circumstances that either unexplained or
3 poorly explained because then I start thinking
4 that's not a coincidence. Okay. That's something
5 intentional. If it's a coincidence, so be it, but
6 this isn't.

7 There was some testimony here that I
8 think was a coincidence with a quotation mark.
9 Random chance happens. When it crosses the line,
10 it's not coincidence anymore, it is people getting
11 together.

12 Now, let's talk about in essence you have
13 two people coming in and saying the exact same
14 thing. Okay. Mr. Houston shot him. All right.
15 Nothing I can do about two people who came in. I
16 want to talk about what I think about their
17 testimony. And remember a couple of things, number
18 one, I do not have to prove that Mr. Houston is not
19 guilty. They have to prove that he is.

20 Number two, I don't have to prove who did
21 it. Quite frankly, that's beyond my limited
22 capabilities. I mean we use some things in here,
23 some thoughts that I think are perfectly logical,
24 but I don't have to prove who did it. That's not
25 my job and I am not able to do that.

1 You know, sometimes pictures can be worth
2 a thousand words. I think I'm going to refer to
3 some of these during my closing. And some of them
4 I think make it clear if you would look at the
5 photographs. Okay. Some of the things that I'm
6 saying absolutely have to be correct. Even though
7 I wasn't out there five days out of six, they have
8 to be because those pictures show some of what I'm
9 saying has to be correct.

10 Now, we do know that does it takes two
11 months for anybody to decide that, yeah, we need to
12 tell the police about this. And let's look first
13 that neither make any mention of this for two
14 months. Eight to 10 weeks. Okay. And those
15 coincidences that I'm talking about -- oh, in fact,
16 both specifically deny it for two months.

17 One guy, Jovan Johnson, denies it. He's
18 standing in the apartment building at Lee's place
19 within a week, every opportunity, the police are
20 there, every single opportunity, and he says I
21 don't know nothing about nothing.

22 For two months being questioned three
23 times Laverio Crooks says absolutely nothing. What
24 are the circumstances, one of those little
25 coincidences that bother me. What are circumstances

1 under which they both come forward. Their
2 conscious gets to them. Well, it just happened
3 that the one guy Jovan Johnson managed to get
4 arrested on a drug charge. Okay. That coincidentally
5 that's when Laverro Crooks now comes forward. And
6 he gets arrested on a drug charge and he stands
7 there over at county not knowing when he's going to
8 get out, a number of bars, concrete, meals when
9 they give them to you. Meals are what they give to
10 you. No toilets. No seats on the toilets. These
11 are stainless steel. It's part of my job is I go
12 in jail and police stations. I'm always real glad
13 that they let me out at my request because these
14 are not nice places.

15 And what do they say besides sitting
16 there and going okay I'm on a little drug charge,
17 you know they got to let me out now. Now, while
18 I'm sitting there not knowing when I'm going to get
19 out of this. Homicide. Homicide comes over, okay,
20 I don't initiate anything. They start talking to
21 me. They tell me what day of the week this
22 shooting occurred. They happened to get it wrong,
23 it wasn't a Saturday it was actually a Friday
24 morning. But they tell me what day of the week it
25 was. They tell me what happened. They gave a bunch

1 of information if I don't then they say, now look,
2 your name keeps coming up. Okay. We got an
3 unsolved homicide. And right now you're looking at
4 who, but you are the number one suspect.

5 And what's the code on the streets, look
6 out for number one first. And you're the one out
7 on the line Mr. Johnson. You're the one that we're
8 questioning. You're the one and we took the
9 trouble when we learned you were in county on a
10 nickel and dime drug charge to come over and see
11 you. Mr. Johnson's sitting there thinking, drugs
12 are bad enough, but I sure don't want a murder
13 case. Let me give you a name. Why is Mr. Houston a
14 better suspect, and those all happened at the same
15 time.

16 Now, I think I covered some of Mr.
17 Johnson, his motive trying to get out from
18 underneath this charge. But the other thing is
19 even a motive and I'm trying to figure out here
20 what a person who has never done business with a
21 man, what his motive would be to shoot him. Well,
22 he didn't want to do business with him. Well, you
23 know, new customers are free to come and go when
24 they want, the last I thought. Okay.

25 But who knows, Mr. Thomas because he's

1 done business with him in the past. Who would
2 consider Mr. Thomas to be one of his customers. I
3 think Johnson. He told you that. I know the man.
4 I've done business with him on a number of
5 occasions.

6 Now I can understand if a person says
7 wait a minute you can't diss me like that. You
8 can't tell your supplier that you want to go
9 elsewhere. Does that make sense. I mean, within
10 the context. But two strangers, it just doesn't
11 make sense. It doesn't add up.

12 You know, pictures, let me walk over here
13 a second and start on some of this. First of all,
14 if I may remember Officer Melvin Williams he
15 strikes me as a very observant young officer.
16 Okay. Remember that he says that you have to
17 drive, that he's coming in this direction, that he
18 has to drive, that there's a clump of weeds right
19 somewhere in there that he has to drive beyond this
20 pile of debris because of it's obstructive --

21 THE COURT: We can barely hear your voice.

22 MR. LANKFORD: Sorry.

23 THE COURT: The court reporter does have
24 to take you down.

25 MR. LANKFORD: Yes, ma'am.

1 And he has to, Officer Williams has to
2 cross beyond these two sets of obstructions before
3 he can see clearly into the field. He's an
4 observant young man. He's impede his view. It's
5 getting light out. And he hasn't been drinking or
6 smoking, one would presume, and that's when he sees
7 it. That's when he sees it. He is incapable, he
8 is unable to see this until he gets to this point.
9 Okay. Which brings up the photographs. Please
10 look at these. Exhibit Number Four, looking north
11 in the field. I'm looking north onto Buena Vista
12 from the field. It's real clear what Officer
13 Williams did.

14 He came in the opposite direction from
15 this car. He goes behind this garage with this
16 clump of weeds. He passed beyond this debris. And
17 he gets to a proximate location between the bike
18 and the phone when he can now see into the field.
19 Okay, fine, that's when you can see it.

20 Now, this, okay. What else does this
21 picture tell us. That these trees are in full
22 foliage and at 5:00 o'clock in the morning in the
23 dark with the light pole in front of you, not back
24 dropping you, not back lighting you, looking into
25 this dense brush according to Mr. Johnson, and this

1 is what you're able to clearly see from a location
2 on a porch here with brick columns.

3 It's somewhat like sitting at the old
4 Tiger Stadium, you better enjoy the atmosphere
5 because you're not going to see a lot of the game.
6 That's where he says he is.

7 Now that angle, that angle appears to be
8 almost the same angle as that of Mr. Crooks. And
9 Mr. Crooks, if this angle is correct, Mr. Crooks
10 would be sitting just about right here. He'd be
11 between the two. Okay.

12 And, again, look at the clump of weeds
13 and the debris. Mr. Crooks says that's where I was
14 and I can see just fine. All right.

15 Again, Exhibits 4, 3 and 9, distances,
16 angles, obstructions, look at them because these
17 pictures tell a thousand words, ladies and
18 gentlemen.

19 Now, we're going back, okay. So Mr.
20 Johnson has motive because he's getting nervous
21 that he may be looking at a homicide. He might
22 have a reason to actually, I don't know if you call
23 it motive, reason, motive and a reason, but he's
24 dissed by, did you do the shooting or it's a lie.
25 There it is in a nutshell.

1 So now we're going to bring Mr. Crooks in
2 as corroboration. Well, quite frankly I don't think
3 Laverro Crooks was ever there. How's he come up
4 with this stuff. He's got two months to talk with
5 guys in the hood. You know when people talk about
6 it for two months. Okay.

7 Well, how else could he know unless he
8 was there, because he's got two months to talk.
9 And Laverro Crooks I don't believe was there because
10 his testimony -- I mean, look, the both are saying
11 the same thing in the same type of way that back in
12 Puritan days people used to get together and say I
13 saw Sally Smith dancing naked in the moonlight with
14 the devil. All right. Yeah, they're consistent as
15 far as that goes.

16 And I understand that people see and hear
17 things differently, but I also know that details
18 are important and realizing things are going
19 different ways. For example, all right, Laverro and
20 again keep in mind, take a look at that rise, take
21 a look at that clump of weeds. Think about what
22 you would have been able to see through it or
23 around it, okay, which Officer Melvin Williams
24 wasn't able to do, but maybe Laverro Crooks who's
25 out there smoking a little weed, doing a sale,

1 maybe he's just got better vision. Maybe he's got
2 better observation in the dark with obstruction,
3 maybe he's superman, I don't know.

4 Anyway, he says though that he sees Mr.
5 Houston go, leave, physically leave the field and
6 get a gun from this abandoned house or this house
7 which happens to where Laverro Crooks spent the
8 night. Coincidence, don't you think. Along the
9 same lines Jovan Johnson, no, I never saw anybody
10 leave. All right. I never saw anybody leave.

11 Now, Javon says I heard a swearing, but I
12 never heard anything racial. Laverro Crooks says,
13 oh no, they were racial epithets, offensive words
14 besides swearing going on.

15 And despite Jovan Johnson's testimony
16 that well, I called out too, what do you need my
17 friend. Sure, Laverro Crooks who's in it, if this
18 is true Laverro if you were there and the windows
19 were opened because it's a nice September morning
20 and you're making sales, you're in a good position
21 to hear and you don't hear that. You only hear
22 what you want to hear. And I'm giving you the
23 benefit of the doubt that you were even out there
24 Laverro. Okay. You don't hear that.

25 And let me get this straight. Laverro

1 Crooks, Jovan Johnson know each another. I'm
2 sitting in my car all night long, business is so
3 good when people that I know show up a short
4 distance away, I don't even acknowledge their
5 existence. Jovan Johnson said I never saw Laverro
6 Crooks or his car which I would recognize. Okay.
7 Laverro Crooks apparently makes no attempt to even--
8 think about how strange that is.

9 Somebody you know, somebody who you are
10 friends with, somebody you've been grinding
11 together go who knows how long in the same
12 neighborhood and you don't even at least, hey,
13 JW -- I mean, County, how you doing.

14 Laverro Crooks is attempting to
15 corroborate something that he never saw.

16 Well, you know, Laverro, I came forward
17 because problems with Mr. Houston and it involved a
18 gun. And you know it's so easy low and behold,
19 anybody seen a gun here. Nope. We got two
20 diagrams, seven photos. That's it. No gun. Easy.
21 He came after me with a gun.

22 And then again, folks, that is something
23 that's going to be decided if necessary on top of
24 that. But think about it in the context how easy
25 it is. How easy it is. Okay.

1 It seems to be always kind of the same
2 thing. It's either my conscious started bothering
3 me. Miracle of miracles, my conscious started
4 bothering me the same time my buddy Jovan Johnson
5 got picked up on a drug case and was talked to by
6 homicide about the murder.

7 Or number two, pretty scared out there.
8 That's the other one that always comes out. I'm
9 scared out there. Yeah, but every single opportunity
10 that you had to talk with the police, when only the
11 police were there, when nobody else was there,
12 okay, you can't take advantage of it. All right.
13 Now think about it for a minute.

14 If that's true, all right, that I'm
15 afraid, look then there's part of this I think
16 about. If anybody sees me talking to the police,
17 if anybody sees the police approach me, I'm in
18 trouble. That's not what happened because that
19 wasn't his problem. Okay.

20 Think about it for a second. Now I'm in
21 danger if I say anything but the mere fact the
22 police come up to me and talk to me on a regular
23 basis, that doesn't endanger me. I'm sorry, but
24 that's ridiculous. If this stuff went down the way
25 they said it did, and he's afraid of Mr. Houston,

1 he is in danger merely because you got people in
2 the hood know that police called upon three occasions.
3 Okay.

4 They always one of the two things, either
5 their conscious bothers them or somehow they get
6 over the fear. It's always the same nonsense.

7 And with regards to Mr. Crooks, there's
8 nothing any chasing. Nothing about any chasing.
9 He says the first shot is fired from the porch.
10 From the porch. Okay. Well, in and of itself this
11 wound here in the face could be consistent with
12 what Mr. Johnson says in and of itself.

13 But if that happened then we know we
14 absolutely know that the first shot or shots would
15 not have been fired from the porch. Okay. And
16 quite frankly when you start adding it all up, what
17 it says Laverio Crooks was not there on September
18 6th, that he is making it up. He is embellishing
19 it.

20 Along those lines with regards to Mr.
21 Crooks I just want to say that when he finally
22 talked to the police, two significant things that
23 he seemed to leave out. Well, one, if you're with
24 a young lady, did you ever tell the police that.
25 And number two, do you see, and the answers to that

1 is no. Okay. Number two, you see Mr. Houston
2 supposedly flip him over and go through his
3 pockets. Did you ever tell the police that. This
4 is pretty significant here. He appeared robbing
5 the guy and I got another witness. Okay. Did he
6 ever tell the police either of those things. No,
7 he did not. What's his excuse when he did was
8 asked about, well, I wasn't asked.

9 Wait a minute, homicide detectives don't
10 rush potential witnesses. Take your time. Here's
11 my card if you remember anything from November
12 until now, here's my card. Okay. Well, he
13 didn't ask me that. No, but sir, he gave you, the
14 last question he asked you is do you have anything
15 more you want to add. No, man, that's it.

16 It's not until he takes the stand and
17 throws in a couple of other little nasty details.
18 It's embellishing. He's lying. And these things
19 from these guys I wouldn't perjure myself. These
20 are just words. Words. Absolutely they're
21 meaningless. You might as well be here reading some
22 first year med school, bio, chem book. Perjury.
23 Just words.

24 Where is the proof. What else have they
25 got besides Laverro and Jovan. That's it. And I

1 don't want to beat a dead horse, but we're talking
2 about how else would Laverro know. And let me give
3 you a little scenario here. The guys grind there
4 every day. Okay. And two months ago there's been
5 a shooting.

6 Before that, the police show up and the
7 reality is you can't -- I mean, it's almost like
8 one of those little packs. You squeeze one end it
9 gets bigger at the other. Okay. The police are
10 there, but basically these guys are able to go
11 about their business completely impeded or more or
12 less impeded.

13 However, once there's been a shooting out
14 there, everything changes. Now think about how
15 good business has been. Guys are getting repeat
16 customers at 5:00 o'clock in the morning. Business
17 is so good that I'll sit in my car all night. It's
18 that profitable. Okay. It is that good.

19 Now, once there's an unsolved homicide in
20 that field around where everybody congregates, we
21 got two problems. First of all, the Tenth Precinct
22 is going to show up in uniforms on a regular basis.
23 You can barely make a sale anymore before you see
24 them cruising down Linwood.

25 It's going to attract attention in

1 precinct. In addition besides the uniform we have
2 a whole another set of problems. We're going to
3 have people in jackets and ties showing up on a
4 regular basis questioning us. Do you think that
5 conversation happened. Something along those lines
6 did. Two months, they had two months to get this
7 together.

8 And the fact that details are different
9 indicates that one of them for sure wasn't out
10 there.

11 Even if we say that the gun shot wound to
12 the face is consistent with a hypothetical as
13 given by Jovan Johnson but completely opposite that
14 was given by Laverio Crooks, we have a couple of
15 problems.

16 Consistent. Now he's laying on his back
17 whether he got flipped over or not. Gun shot wound
18 to the left knee consistent with that. Yes. Gun
19 shot wound number two coming in the left flank
20 going out the left flank at a slight angle. Yes.

21 And I realize that people will move at
22 the last minute trying to save their life. Okay.
23 When he's laying on his back explain coming in
24 here, coming out here. Explain that. Boom, boom,
25 what can we do with it. How do I position a gun to

1 do that. And you know, at some point up to 18 to 24
2 inches we have close-range firing. This is less
3 than perfect because the clothes are still in the
4 hospital. Okay. And fabrics can impede this soot,
5 this gun powder gets imbedded.

6 But we do know that 18 to 24 inches where
7 you will see this is just about the distance that
8 Mr. Johnson said he told me to stop. That's the
9 distance supposedly that these shots were fired
10 from. No close-range firing.

11 The face, there's a hole. Okay. Jovan
12 Johnson and Laverro Crooks got a real big interest
13 in business resuming and things getting back to
14 normal. That's not going to happen unless and until
15 the police go away. Unless and until we give them
16 something so they will go away.

17 A couple of others things that just
18 wasn't mentioned. I apologize for the length.
19 Let's assume if Jovan Johnson is right. And I
20 talked about the factor. Crooks can't be right.
21 He couldn't have seen it. It's different than what
22 Jovan said, look, why he made it up basically is
23 Laverro wasn't there.

24 I think I've gone over that ad nauseam.
25 I asked, let's go for JJ for a second, Jovan

1 Johnson. All right. If what he's saying is
2 correct there's four to six shots fired at
3 different times in the field.

4 Okay. Now, I understand when Officer
5 Carpenter goes out there that, you know, this is an
6 unattended field, excuse me, Sergeant, and I
7 understand that. Look at it, yeah, there's clumps
8 of crabgrass. You wouldn't run out there because
9 the grounds pretty uneven. But we're not talking
10 about marshy cattails or elephant grass here.
11 Okay. You can clearly see the ground. You can
12 clearly see the ground.

13 Officer Carpenter, the evidence tech goes
14 out there, okay, and if what they're saying that
15 Mr. Houston fired four to six rounds in the field,
16 and according to Laverro Crooks it was a 40 caliber
17 semiautomatic. I talked to the officer. What's
18 the projection feature of a semi as opposed to a
19 revolver. It kicks brass casing out.

20 All right, now, if this took place some
21 where within ten or 12 feet, I would anticipate
22 finding at least one brass casing. There's
23 nothing. There's not one brass casing found in
24 that field at all.

25 And Officer Carpenter is out there when

1 it's daylight. Brass, even dull metal shines.
2 Okay. Shines. It will shine in the sunlight, and
3 especially if you are closely looking for
4 something. If it's there you want to find it.

5 Now, okay, now I guess you kind of flip
6 this both ways. Well, maybe it was a revolver.
7 Yeah, but Laverro said it was a semi. Well,
8 maybe -- and that revolver keeps the casings in
9 tact. They keep them in the cylinder. Or maybe
10 the shot was fired from across the street with a
11 rifle. Okay. That's possible. And quite frankly
12 I would give a person, even a trained military or
13 law enforcement pretty good odds with a pistol, a
14 handgun at 125 feet. My stupid luck. Very few,
15 very few people are that good with a pistol or a
16 revolver.

17 As far as bullets go, if they went on
18 through is what it said. I don't expect Officer
19 Carpenter to be down there on his hands and knees
20 with a trenching tool, you know, doing the old gold
21 dust kind of thing seeing if he can find any
22 casings. I'm sorry, slugs. But there are no slugs
23 recovered either. And I think that what happens is
24 really if look at this and even according to Mr.
25 Johnson's testimony Mr. Houston leaves. Okay,

1 there's no money, there's no ID. Coincidentally
2 there's no casings, there's no slugs.

3 I have a fairly good theory as to what
4 happened. Somebody cleaned up. It can't be Mr.
5 Houston. He's gone. If what you're saying is true
6 Jovan. No casings, no slugs, no ID, no money. This
7 person has no motive to shoot this man whatsoever.
8 Who's left, and manages to get all this stuff that
9 could be helpful, could corroborate. One of their
10 civilians and it doesn't exist.

11 Some of this I've already covered. Just
12 one second. All right. We do know too that Laverro
13 and Jovan have been friends. Regardless of how they
14 would like to put Mr. Houston's relationship as far
15 as why they didn't come through before. This
16 supposed code of the streets, the bottom line is
17 they both said the same thing. They've known Mr.
18 Houston for a couple of months. Not any particular
19 time with him, really got nothing against him, he's
20 been out there, he's been rolling with us for the
21 last couple of months. That's it.

22 He is not their close friends. He is not
23 somebody that they would care whether or not they
24 try to help him out or do they try to harm him.
25 He's simply irrelevant to them. It's easy to do

1 that with somebody that's merely an acquaintance
2 and not a threat.

3 Now, a couple of other things and I
4 think I'm into the home stretch here. There's
5 going to be stuff that when you guys go back into
6 the jury room, things I haven't brought up enough.
7 Maybe some of it will be helpful. Okay. I do want
8 to ask you, people have the tendency to try to be
9 amateur detectives and I think we all do that. The
10 proofs here in this case are the proofs here.
11 Either it's up or it's down. Theorizing, even
12 saying to yourself maybe Mr. Houston was involved.
13 That's all virtually by definition insufficient,
14 it's virtually by definition not proof beyond a
15 reasonable doubt.

16 Everybody in this case has had a certain
17 job. Shortly we're going to turn it over to you
18 for what I believe is one of the most difficult
19 jobs in this courtroom, and that is to make a
20 decision regarding the facts. You are the persons
21 who decide the facts and apply the law. That is
22 your duty. Your obligation.

23 A couple of legal principals. When some
24 of us first started in this business there was a
25 jury instruction where they attempted to find proof

1 beyond a reasonable doubt. It's a somewhat
2 difficult concept. But what they did about 10 or
3 12 years ago because they kind of flipped it and
4 now there's a definition, a legal instruction which
5 you must follow as to what reasonable doubt is.

6 And it goes through a lot of things and
7 it comes down to that a reasonable doubt is just
8 that, one that is reasonable under all the
9 circumstances.

10 And I think that if you listen fairly to
11 this, that there are reasonable doubts. There is a
12 reasonable doubt. And I guess that definition of
13 reasonable doubt sometimes maybe when I'm sitting
14 in a bar having a couple of Heinkens and I can
15 mumble things about academics, committees, people
16 that never been in a courtroom, but the bottom line
17 is that may well be one of the most brilliant things
18 I've ever heard in my life. Okay. It's got a
19 common sense to it. Ultimately a reasonable doubt
20 is just that. One that is reasonable under the
21 circumstances, and that's a legal definition.

22 Now, I do know two things about proof
23 beyond a reasonable doubt. It's actually what you
24 individually and collectively say it is. Okay.

25 I also know that proof beyond a reasonable

1 doubt is the highest standard that you can have in
2 a courtroom in this country. It's not merely maybe
3 or maybe a little more likely than not, it is proof
4 beyond a reasonable doubt.

5 Now, and I want to go through a couple of
6 things here just basically legal principals the
7 important ones in a criminal court. Okay.

8 First of all, folks, Mr. Houston is
9 presumed to be innocent. He is not presumed to be
10 guilty. He is presumed to be innocent.

11 Number two the burden of proof, it's
12 right over here where it belongs, it doesn't cross
13 this podium. It doesn't near Mr. Houston or
14 myself. I don't have to prove anything. And as a
15 result of the fact that the People have the burden
16 of proof, they get two opportunities to talk with
17 you guys. They get to talk with you first. I go
18 second and then they're going to get a brief
19 opportunity to talk with you once again.

20 And the reason that we let them go
21 primary and -- they say, memory experts what you
22 remember is what you read first and what you heard
23 last. But the reason that that is permitted for
24 him to go first and last is because he has the
25 burden of proof.

1 Finally, that burden of proof is, as I
2 have talked about, beyond a reasonable doubt, not
3 maybe, not might have been, not gee I think it's
4 more likely than not. Their standard what they're
5 held to is proof beyond a reasonable doubt.

6 When you apply those three most
7 fundamental legal principals. When you seriously
8 reflect upon the evidence or lack of evidence in
9 this case, and I think that there's really only one
10 fair and just verdict and that is it Mr. Houston is
11 not guilty on all three counts.

12 On behalf of Mr. Houston, thank you for
13 your time and your consideration.

14 THE COURT: Rebuttal.

15 MR. HASSINGER: Thank you, Your Honor.

16 This is the last time I get to speak to
17 you, ladies and gentlemen. And I'm going to be
18 brief, I just want to make some comments about what
19 Mr. Lankford has told you because I like Mr.
20 Lankford. I've known him a long time and he's a
21 good man. He's doing his job. We all appreciate
22 that. But I do have disagreements about how he
23 remembered the testimony and I'm hoping you can
24 call upon your collective memory to remember what
25 the testimony was.

1 For example, one example, when you heard
2 Officer Williams, he did testify that when he got
3 to about this area he was able to clearly see the
4 body in the field. Mr. Lankford is twisting that
5 around and arguing that Officer Williams could not
6 see the body from this location. And there's
7 absolutely no testimony to support that.

8 Officer Williams tells you when he makes
9 the observation from here, that does not mean it
10 was impossible for him to make the observation from
11 this location. That's not fair.

12 MR. LANKFORD: Judge, I object. He's
13 specifically said he did not make that observation.

14 THE COURT: Excuse me, I'll overrule the
15 objection.

16 MR. HASSINGER: Thank you, Your Honor.

17 THE COURT: He's arguing what the evidence
18 tends to show. You may go ahead.

19 MR. HASSINGER: Thank you, Judge.

20 So you can't say because a man sees
21 something from here, he could not have seen it from
22 here. And in fact we have the pictures. You can
23 look at the pictures. You can judge for yourself.
24 Okay.

25 So you have to listen carefully to the

1 testimony because somebody says X that does not
2 mean that Y is also true. And another coincidence
3 I thought Mr. Lankford just got up here and he told
4 you well Mr. Crooks and Mr. Johnson had to get rid
5 of this murder investigation so they can get back
6 out to grinding on west Buena Vista. Then why did
7 they wait two months to come forward. If this
8 investigation was hurting their business so bad,
9 why did they wait two months.

10 See, this is a contradiction. It doesn't
11 make sense where someone gets up here and argues
12 two opposite things to you, and then you have to
13 start wondering why they're doing this, and I'll
14 answer that. Why they're doing this is to try and
15 blow some smoke in front of your eyes so you don't
16 see the real issue in this case. Because the real
17 issue in this case is who shot Carlton Thomas.

18 It's not what words were spoken. Okay.
19 The issue is who shot Carlton Thomas because, yes,
20 I do have to prove this case beyond a reasonable
21 doubt. But the judge, Judge Jones is going to tell
22 you, the prosecutor has to prove the elements of
23 the crime beyond a reasonable doubt. I don't have
24 to prove how well the lighting was at that
25 location. I don't have to prove other perhaps

1 inconsistencies about what was said and what was
2 done, simply the elements of the crime, first
3 degree murder. Somebody was killed.

4 Well, there's no doubt in this case
5 somebody was killed. Somebody was killed
6 deliberately and intentionally with premeditation
7 as in this case where someone was shot four times.

8 The only other issue is who pulled the
9 trigger. That's what I have to prove to you beyond
10 a reasonable doubt. And no one has come into this
11 court and contradicted Mr. Johnson or Mr. Crooks
12 about who pulled the trigger.

13 Now, Mr. Lankford has several theories
14 he'd like to throw out there on the table. And
15 theories are a wonderful thing, but there's no
16 evidence to support of them.

17 Sure, we can all hypothetically while X,
18 Y, Z could have happened, sure, sure. This could
19 have been a police execution of Carlton Thomas.
20 There's no evidence to support it. You have to make
21 your decision based on the evidence that was
22 brought forward in this case, the testimony, and
23 the exhibits, and the photographs. Not on Mr.
24 Lankford's theories. The evidence.

25 Mr. Lankford has some interesting

1 theories. He says Mr. Johnson is the murderer and
2 so therefore Mr. Crooks is setting up Mr. Houston
3 and protecting Mr. Johnson. He argues to you that
4 perhaps Mr. Crooks was the murderer and Mr. Johnson
5 is lying. Okay. Why would these people lie.
6 There's no reason for it. It doesn't make any
7 sense.

8 Mr. Johnson came into court and told you
9 he is Mr. Houston's friend. He doesn't want to be
10 here. He doesn't want to be cooperating in this
11 case.

12 Another thing Mr. Lankford said that I
13 don't know where he's getting this from, but he's
14 saying that Mr. Houston and Mr. Thomas were
15 strangers. Well, how do we know that. We don't
16 know that. Where is that coming from.

17 Mr. Johnson said he had done business
18 with Mr. Thomas once, maybe twice. But all the
19 rollers, all the grinders over there know the
20 people who come there. There's no evidence to
21 support the fact that Mr. Houston and Mr. Thomas
22 were strangers. We just don't know that. You
23 can't go out there and just hypotheticalize like
24 that. It doesn't make any sense. We don't know how
25 many times they had done business, if they have.

1 Okay. This is the most important thing,
2 ladies and gentlemen. Mr. Lankford tells you that
3 Mr. Crooks had two months to figure out what
4 happened so he could come into court and testify.
5 Okay. And he had two months to talk to people in
6 the hood to figure out exactly how this murder went
7 down since -- according to Mr. Lankford Mr. Crooks
8 wasn't there, right. So he's got to go talk to all
9 the people in the hood and figure out how it went
10 down. What Mr. Lankford leaves out is not only did
11 he have to talk to people in the hood, he must have
12 went and talked to the medical examiner too. And
13 the medical examiner must have given him
14 information to help set up Mr. Houston for a crime
15 he didn't do. Okay.

16 For example, one of the most important
17 things the medical examiner told us, and let me
18 digress for a minute. When the medical examiner was
19 on the stand he told us that gun shot wounds one,
20 two and three, the three to the body were all
21 consistent with somebody on the ground and somebody
22 shooting over them. Mr. Lankford gets up and tells
23 you, well, no, that's impossible for gun shot wound
24 number three. He says, no, that's impossible.

25 Well, the expert told you it was

1 possible. Now, who do you believe; an expert, a
2 medical examiner. And he said all someone has to
3 do is twist their body slightly and that bullet
4 will pass through just like that. We asked the
5 medical examiner specifically those functions. He
6 said these wounds are consistent with that
7 scenario. What more can he tell you.

8 Furthermore, the abrasions on the knees.
9 Remember how the medical examiner turned those
10 abrasions, he called them terminal abrasions.
11 Okay. I asked him what does that mean terminal
12 abrasions. He said those are abrasions that
13 occurred at the time of death. What does that
14 mean. That means Carlton Thomas fell face first
15 and got these abrasions on his knees.

16 How would Mr. Crooks know that. How
17 would Mr. Crooks know that Mr. Thomas was shot in
18 the face. How would Mr. Crooks know that when they
19 recovered Mr. Thomas's clothes from the hospital,
20 his money was gone. How he was just able to make up
21 that Mr. Houston must have gone in his pockets and
22 taken his money. How did he know unless the police,
23 and the medical examiner, and the witnesses are all
24 conspiring to set up Mr. Houston, because that's
25 the choice you have to make in this case. It's

1 very easy.

2 One of two things happened. Either Mr.
3 Crooks, Mr. Johnson, the medical examiner, all the
4 police are conspiring to set up Mr. Houston for
5 something he hasn't done or he did it. Which
6 choice is there. That's what you're going to tell
7 us with your verdict.

8 How would Mr. Crooks know that this body
9 was rolled over. And we know it was because
10 Officer Williams tells you there's the spot of
11 blood that isn't where Mr. Thomas is found. Mr.
12 Thomas is about a foot over. And that shows you
13 when Mr. Thomas fell face forward with that
14 horrible wound to his face, there's going to be
15 blood right there.

16 Then when he's rolled over, there's not
17 going to be blood. He's got on all these clothes.
18 The wound is to his face. That's why he's not
19 there on the blood. He was rolled over. How's Mr.
20 Crooks know this. Then this is one heck of an
21 elaborate setup, and Mr. Crooks is one heck of a
22 detective, isn't he. You saw him on the stand. Do
23 you think that he's that sophisticated. Do you
24 think he's that good of a detective to set up Mr.
25 Houston in this way.

1 Mr. Lankford tells you well where's the
2 gun. Well, if Mr. Johnson was the murderer he
3 would have had the gun he could have easily framed
4 Mr. Houston with it. We don't know where the gun
5 is. That doesn't mean somebody wasn't shot. That's
6 what Mr. Lankford's telling you.

7 Well, if they didn't get a gun so
8 nobody's shot, nobody's murdered. That doesn't
9 make sense. You know somebody was shot.

10 Then you know what, I'm not sure Mr.
11 Johnson realized Mr. Crooks was out there either.
12 He had been drinking, doing drugs. You know, its
13 very possible Mr. Johnson didn't know Mr. Crooks
14 was out there. And that's actually a lot more
15 likely than the fact that they get together and
16 conspire to set Mr. Houston up and then get that
17 wrong on the stand. Again, that's one of those
18 choices. Did they conspire to set up Mr. Houston
19 and then forget that they were both out there.
20 Probably Mr. Johnson didn't see them.

21 Remember, Mr. Johnson told you there's
22 all kinds of traffic going up and down that road.
23 Okay. All kinds of businesses being conducted. Mr.
24 Crooks told you at one point he did leave that
25 scene. Probably when he went to get his lady

1 friend, but he told you he did leave that scene.
2 He was coming and going. So you're not always
3 paying attention to where cars are parked out
4 there. But certainly if you were going to lie,
5 you'd get that part right.

6 Mr. Crooks does cooperate with the police
7 and he told you why. If he didn't cooperate with
8 them either he was going to have to kill Mr.
9 Houston or Mr. Houston was going to kill him.

10 And when he does help set up Mr. Houston
11 to get him arrested what does Mr. Houston do. Mr.
12 Houston runs in the house. Locks himself in
13 somebody else's flat. Refuses to come out when the
14 police are there yelling police come on out. Come
15 on out. He's hiding. Now, is that what you would
16 do when the police approach you if you've done
17 nothing wrong as a citizen. Do you go running into
18 anybody else's house, lock the door and when the
19 police actually get the keys to come in, do you try
20 and keep the door closed. He's doing everything he
21 can from getting caught.

22 Is that the way an innocent person acts,
23 ladies and gentlemen. He's telling you by his own
24 actions he's done something wrong. Why is that
25 going on, ladies and gentlemen. Is this a big

1 conspiracy to set up an innocent man on a murder
2 charge. Is that what you really think this is, or
3 this is a story of a guilty man running and hiding
4 to the last minute to keep from getting caught.

5 Yeah, I agree with Mr. Lankford. There
6 wasn't any good motive to kill this man and
7 unfortunately in most murder cases there are. It's
8 a senseless, stupid tragedy. You shouldn't be out
9 there killing people. We all agree with that.
10 Yet, he did it, and you should hold him accountable
11 for what he did.

12 Thank you very much, ladies and
13 gentlemen.

14 THE COURT: Ladies and gentlemen, I'm
15 going to caution you, you may not discuss this
16 matter among yourselves nor with anyone else.

17 Who is the juror whose daughter has a
18 doctor's appointment? It's taken care of. Okay.

19 You may not discuss among yourselves nor
20 with anyone else. We're going to let you go out
21 and have a good lunch and ask you to be back here
22 1:30 at which time I will give you your instructions
23 so you'll begin your deliberations. We'll rise for
24 you to get your things to go to lunch. Everyone
25 rise Jurors are free to go to lunch.

1 (Jury exits courtroom)

2 THE COURT: Rise for the jury, please.

3 (Jury enters courtroom.)

4 THE COURT: Do I have the stipulation that
5 all of our jurors are here and in their proper
6 places?

7 MR. HASSINGER: Yes, Judge.

8 MR. LANKFORD: Agreed, Your Honor.

9 THE COURT: Members of the jury, the
10 evidence and arguments in this case are now
11 finished, and I will now instruct you on the law
12 that applies to this case. Remember that you've
13 taken an oath to return a true and just verdict
14 based only on the evidence and my instructions on
15 the law. You must not let sympathy or prejudice
16 influence your decision. As jurors you must decide
17 what the facts of this case are. This is your job
18 and no one else's.

19 You must think about all of the evidence
20 and the testimony and then decide what each piece
21 of evidence means, and how important you think it
22 is. This includes whether you believe what each of
23 the witnesses said.

24 What you decide about any fact in this
25 case is final. It is my duty to instruct you on the

1 law. You must take the law as I give it to you.
2 If a lawyer had said something different about the
3 law, follow what I say.

4 At various times I've already given you
5 some instructions about the law. You should
6 consider all of my instructions together as the law
7 that you are to follow. You should not pay
8 attention to some instructions and ignore others.
9 To sum up, it is your job to decide what the facts
10 of this case are, to apply the law as I give it to
11 you, and that way decide this case.

12 Every person accused of a crime is
13 presumed to be innocent. This means that you must
14 start with the presumption that the defendant is
15 innocent. This presumption continues throughout the
16 trial and entitles the defendant to a verdict of
17 not guilty unless you're satisfied beyond a
18 reasonable doubt that he is guilty.

19 Now, every crime is made up of parts
20 called elements. The prosecution must prove each
21 element of a crime charged beyond a reasonable
22 doubt. The defendant is not required to prove his
23 innocence or to do anything.

24 If you find the prosecution had not
25 proven every element beyond a reasonable doubt,

1 then you must find the defendant not guilty. A
2 reasonable doubt is a fair, honest doubt growing
3 out of the evidence or lack of evidence. It is not
4 merely an imaginary or possible doubt, but a doubt
5 based upon reason and common sense. A reasonable
6 doubt is just that, a doubt that is reasonable
7 after a careful and considered examination of the
8 facts and circumstances of this case.

9 Now, every defendant has the absolute
10 right not to testify. When you decide this case,
11 you must not consider the fact that he did not
12 testify. It must not affect your verdict in any
13 way. When you discuss this case and decide on your
14 verdict you may only consider the evidence that has
15 been properly admitted in this case. Therefore, it
16 is important for you to understand what is evidence
17 and what is not evidence.

18 The evidence in this case includes only
19 the sworn testimony of the witnesses, the exhibits
20 that were admitted into evidence, and there was two
21 stipulation of facts, which I will talk to you
22 about later.

23 Now, many things are not evidence and you
24 must be careful not to consider them as such. I
25 will now describe some of things that are not evidence.

1 The fact that this defendant is charged with a crime
2 and is on trial is not evidence.

3 Also, the lawyers' statements and
4 arguments are not evidence. They're only meant to
5 help you understand the evidence on each side's
6 legal theory.

7 The questions that the lawyers put to the
8 witnesses are also not evidence. You should
9 consider these questions only as they give meaning
10 to the witness's answers. You should only accept
11 things a lawyer says that is supported by the
12 evidence or by your own common sense and general
13 knowledge.

14 Also, you have heard testimony about some
15 police reports, I believe, during this trial and
16 maybe some witness statements. Those reports and
17 statements were not admitted as evidence during
18 this trial. What you heard was testimony concerning
19 them.

20 So if you go in the jury room and you
21 send out a note and say, please, send me Officer
22 William's PCR, preliminary complaint report, you
23 will not get that. That was not admitted into
24 evidence. What you heard was testimony concerning
25 those items.

1 Now, my comments, my rulings, my
2 questions, and my instructions are also not
3 evidence. It is my duty to see that this trial is
4 conducted according to the law and to tell you the
5 law that applies to this case.

6 However, when I make a comment or give an
7 instruction, I'm not trying to influence your vote
8 or express a personal opinion about the case.

9 If you believe that I have a personal
10 opinion about how you should decide this case, you
11 must pay no attention to that opinion. You are the
12 only judges of the facts and you should decide this
13 case from the evidence presented.

14 At times during this trial I have
15 excluded evidence that was offered or stricken
16 testimony that was heard. Do not consider those
17 things in deciding this case. Make your decision
18 only on the evidence that I let in and nothing
19 else.

20 You should use your own common sense and
21 general knowledge in weighing and judging the
22 evidence. But you should not use any personal
23 knowledge you may have about a particular place or
24 a particular person or a particular event. To
25 repeat once more, you must decide this case based

1 only on the evidence admitted during this trial.

2 Now, you should not decide this case
3 based on which side presented more witnesses.
4 Instead you should think about each witness and
5 each piece of evidence and whether you believe
6 them. Then you must decide whether the testimony
7 and evidence you believe prove beyond a reasonable
8 doubt that the defendant is guilty.

9 Now, facts can be proven by direct
10 evidence from a witness or an exhibit. Direct
11 evidence is evidence about what we actually see or
12 hear.

13 For example, if you look outside and see
14 rain falling, that is direct evidence that it is
15 raining. Facts can also be proven by indirect or
16 circumstantial evidence. Circumstantial evidence
17 is evidence that normally or reasonably leads to
18 other facts.

19 So, for example, if you see a person come
20 in from outside wearing a rain coat covered with
21 small drops of water, that would be circumstantial
22 evidence that it is raining.

23 You may consider circumstantial evidence
24 by itself or a combination of circumstantial
25 evidence, and direct evidence can be used to prove

1 the elements of a crime. In other words, you
2 should consider all the evidence that you believe.

3 You may consider whether the defendant
4 had a reason to commit the alleged crime, but a
5 reason by itself is not enough to find a person
6 guilty of a crime.

7 The prosecution does not have to prove
8 that the defendant had a reason to commit the
9 alleged crime. The prosecution only has to show
10 that the defendant actually committed the crime and
11 that he meant to do so.

12 Now, when the lawyers agree upon a
13 statement of facts, these are called stipulated
14 facts, and you may regard such stipulated facts as
15 true, but are not required to do so.

16 And there were two stipulations entered
17 in this matter. The last stipulation being that on
18 September 6th, which I believe was the date of this
19 event, 2002, the defendant was ineligible to
20 possess a firearm and that he had been convicted of
21 a felony, and that his eligibility had not been
22 restored; is that a correct statement?

23 MR. HASSINGER: Yes, Your Honor.

24 MR. LANKFORD: Yes, Your Honor.

25 THE COURT: The other stipulation is that,

1 Cynthia Thomas, the mother of the deceased had
2 testified, she would have testified that she
3 identified the body of Mr. Carton Thomas on
4 September 7, 2002 to the medical examiner. Is that
5 a correct statement of the stipulation?

6 MR. HASSINGER: That is, Judge.

7 MR. LANKFORD: Again, Your Honor.

8 THE COURT: Okay.

9 When the lawyers agree upon statement of
10 facts, these are called stipulated facts. You may
11 regard such stipulated facts as true but are not
12 required to do so.

13 Now, there's been some evidence that the
14 defendant tried to run away at the time the police
15 tried to arrest him. This evidence does not prove
16 guilt. A person may run or hide for innocent
17 reasons such as panic, mistake, or fear.

18 However, a person may also run or hide
19 because a consciousness of guilt. You must decide
20 whether this evidence is true, and if true, whether
21 it shows the defendant had a guilty state of mind.

22 As I said before, it is your job to
23 decide what the facts of this case are. You must
24 decide which witnesses you will believe and how
25 important you think their testimony is. You do not

1 have to accept or reject everything a witness says.
2 You are free to believe all, none, or part of any
3 person's testimony. In deciding which testimony you
4 believe, you should rely on your own common sense
5 and every day experience.

6 However, in deciding whether you believe
7 a witness's testimony, you must set aside any bias
8 or prejudice you may have based on race, gender or
9 national origin of the witness.

10 Now, there's no fixed set of rules for
11 judging whether you believe a witness, but it may
12 help you to think about these questions. Was the
13 witness able to see or hear clearly? How long was
14 the witness watching or listening? Was anything
15 else going on that might have distracted the
16 witness? Did the witness seem to have a good
17 memory? How did the witness look and act while
18 testifying? Did the witness seem to be making an
19 honest effort to tell the truth or did the witness
20 seem to evade the questions or argue with the
21 lawyers? Does the witness's age and maturity
22 effect how you judge his or her testimony? Does
23 the witness have any bias, prejudice or personal
24 interest in how this case is decided? Had there
25 been any promises, threats, suggestions or other

1 influences that effect on how the witness testified?

2 In general, does the witness have any
3 special reason to tell the truth or any special
4 reason to lie?

5 All in all, how reasonable does the
6 witness's testimony seem when you think about all
7 of the other evidence in this case.

8 Now, sometimes the testimony of different
9 witnesses will not agree. You must decide which
10 testimony you accept. You should think about
11 whether the disagreement is about something
12 important or not and whether you think someone is
13 lying or simply mistaken.

14 People see and hear things differently,
15 and witnesses may testify honestly but simply be
16 wrong about what they thought they saw or remembered.

17 It is also a good idea to think about
18 which testimony agrees best with all of the other
19 evidence in this case.

20 However, you may conclude that a witness
21 deliberately lied about something that is important
22 to how you decide this case. If so, you may choose
23 not to accept anything that witness said.

24 On the other hand, if you think the
25 witness lied about something but told the truth

1 about others, you may simply accept the part you
2 think is true and ignore the rest.

3 Now, you have heard that the lawyers or
4 lawyer's representative have talked to some of the
5 witnesses. There is nothing wrong with this. A
6 lawyer or lawyer's representative may talk to
7 witnesses to find out what the witness knows about
8 the case and what the witness's testimony will be.

9 You have heard testimony from Dr. Paul
10 Nora who has given his opinion as an expert in the
11 field of forensic pathology. Experts are allowed to
12 give opinions in courts about matters they are
13 experts on.

14 However, you do not have to believe an
15 expert's opinion. Instead you should decide
16 whether you believe in it, and how important you
17 think it is.

18 When you decide whether you believe an
19 expert's opinion, think carefully about the reasons
20 he or she gave for his or her opinion and whether
21 those reasons and facts are true. You should also
22 think about the expert's qualification and whether
23 his opinion makes sense when you think about all of
24 the other evidence in this case.

25 You have heard testimony from several

1 witnesses who are police officers. That testimony
2 is to be judged by the same standard as you use to
3 evaluate the testimony of any other witness.

4 Now, there's been some testimony or some
5 evidence that Jovan Johnson made an earlier
6 statement that did not agree with his testimony
7 during this trial. You must be very careful how you
8 consider this evidence.

9 This statement was not made during this
10 trial, so you may not consider it when you decide
11 whether the elements of the crime have been
12 proven. But I will go on and there is a caveat to
13 that.

14 On the other hand, you may use it to help
15 you decide whether you think Jovan Johnson is a
16 truthful witness. Consider this statement carefully.

17 Ask yourself if the witness made the
18 statement and whether it differs from the witness's
19 testimony here in court. Then remember you may
20 only use it to help you decide whether you believe
21 Jovan Johnson's testimony here in court.

22 However, in this case if the witness
23 testified that the earlier statement was true, or
24 as in this case, if the earlier inconsistent
25 statement was given under oath subject to the

1 penalty of perjury at the hearing, it was a
2 preliminary examination if I remember correct, it
3 may be considered as proof of the facts in the
4 statement. And I believe that the question was
5 what Mr. Johnson thought he might be charged with.

6 Now, the defendant in this case is
7 charged with several counts. The first Count is a
8 Count of First Degree Premeditated Murder. In order
9 to establish this charge, the prosecution must
10 prove each of the following elements beyond a
11 reasonable doubt:

12 First, that the defendant caused the
13 death of Carlton Thomas. That is, that Mr. Thomas
14 died as a result of being shot.

15 Second, the People have to establish that
16 the Defendant intended to kill Carlton Thomas.

17 Third, the People have to establish that
18 this intent to kill was premeditated, that is,
19 thought out beforehand.

20 Fourth, the People have to establish that
21 the killing was deliberate, which means that the
22 Defendant considered the pros and cons of the
23 killing and thought about it and choose his actions
24 before he did it. There must have been real and
25 substantial reflection for long enough to give a

1 reasonable person a chance to think twice about the
2 intent to kill.

3 Our law does not state how much time is
4 needed. It is for you to decide if enough time
5 passed under the circumstances of this case. The
6 killing cannot be the result of a sudden impulse
7 without thought or reflection.

8 And fifth, the killing cannot be
9 justified, excused, or done under circumstances
10 that would reduce it to the lessor crime to Second
11 Degree Murder which I will explain to you in a few
12 moments.

13 In order to show the Defendant is guilty
14 of First Degree Premeditated Murder, the People
15 have to establish first that the Defendant caused
16 the death of Carlton Thomas. That is that Mr.
17 Thomas died as a result of being shot.

18 Second, the People have to establish the
19 Defendant intended to kill Carlton Thomas.

20 Third, the People have to establish that
21 this intent to kill was premeditated, that is,
22 thought out beforehand.

23 Fourth, the People have to establish that
24 the killing was deliberate, which means that the
25 Defendant considered the pros and cons of the

1 killing and thought about it and choose its actions
2 before he did it. There must have been real and
3 substantial reflection for long enough to give a
4 reasonable person a chance to think twice about the
5 intent to kill.

6 Our law, once again does not state how
7 much time is needed. It is for you to decide if
8 enough time passed under the circumstances of this
9 case. The killing cannot be a result of a sudden
10 impulse without thought or reflection.

11 And fifth, the killing cannot be
12 justified, excused, or done under circumstances
13 that would reduce it to the lessor crime of Second
14 Degree Murder.

15 Now, in order to convict the Defendant of
16 First Degree Premeditated Murder requires proof of
17 a specific intent. This means that the prosecution
18 must prove not only that the Defendant did certain
19 acts, but that when he did so he did so with the
20 intent to cause a particular result.

21 For the crime of First Degree Premeditated
22 Murder, this means that the Prosecution must prove
23 that the Defendant intended to kill Mr. Carlton
24 Thomas.

25 Now, this is where we're talking about

1 the circumstantial evidence because you see nobody
2 can cut open a person's mind and say look here,
3 this is what the person intended.

4 The person's intent may be proven by what
5 he said, what he did, how he did it, or any other
6 fact or circumstances in evidence.

7 Now, you may also consider the lessor
8 offense of Second Degree Murder. In order to
9 establish this charge, the Prosecution must prove
10 the following elements beyond a reasonable doubt:

11 First, that the Defendant caused the
12 death of Carlton Thomas; that is, that Mr. Thomas
13 died as a result of being shot.

14 Second, the People have to establish that
15 the Defendant had one of these three states of mind
16 at the time of the act.

17 Now, listen to me very carefully.

18 Second, the People have to establish the
19 Defendant had one of these three states of mind at
20 the time of the act. The People have to establish
21 either that the Defendant intended to kill Mr.
22 Thomas, or the Defendant intended to do great
23 bodily harm to Mr. Thomas, or the Defendant
24 knowingly created a very high risk of death or
25 great bodily harm knowing that death or such harm

1 would be the likely results of his actions.

2 Now, the two elements the People would
3 have to establish beyond a reasonable doubt to show
4 the Defendant is guilty of Second Degree Murder is,
5 first, the Defendant caused the death of Carlton
6 Thomas; that is, that Mr. Thomas died as a result
7 of being shot.

8 Second, the People have to establish that
9 at the time of the act that caused the death of Mr.
10 Thomas, the Defendant had one of these three states
11 of mind. The People have to establish either the
12 Defendant intended to kill Carlton Thomas or the
13 Defendant intended to do great bodily harm to
14 Carlton Thomas, or that the Defendant knowingly
15 created a very high risk of death or great bodily
16 harm, knowing that death or such harm would be the
17 likely result of his actions.

18 Now, you must think about all of the
19 evidence and decide what the Defendant's state of
20 mind was at the time of the alleged killing.

21 The Defendant's state of mind may be
22 inferred from the kind of weapons used, the type of
23 wounds inflicted, the act of words of the
24 Defendant, and any other circumstances about the
25 alleged killing. You may infer the Defendant

1 intended to kill and he used a dangerous weapon in
2 a way that was likely to cause death.

3 Likewise, you may infer the Defendant
4 intended the usual result that's from the use of a
5 dangerous weapon. A gun is a dangerous weapon.

6 Premeditation and deliberation may be
7 inferred from any action of the Defendant which
8 shows planning or from any other circumstances
9 surrounding the killing. The Prosecution need not
10 prove a motive for killing, but you may consider
11 evidence of motive in deciding whether there was
12 premeditation and deliberation. Motive by itself
13 does not prove premeditation and deliberation.

14 The next Count is the Count of Possession
15 of a Firearm by a Felon. In order to establish
16 this charge, the Prosecution must prove the
17 following elements beyond a reasonable doubt:

18 First, that the Defendant possessed a
19 firearm in this state. It should be first, that
20 the Defendant possessed, used, transported, sold,
21 or received a firearm in this state.

22 Second, the People have to establish that
23 the Defendant was convicted of a felony.

24 Third, the People have to establish that
25 less than five years had passed since all

1 imprisonment was served or any term of probation
2 was completed.

3 And there was a stipulation that the
4 Defendant's eligibility had not been restored. So
5 first, the People would have to establish that the
6 Defendant possessed, or used, or transported, or
7 sold, or received a firearm in this state.

8 Second, the People have to establish the
9 Defendant was convicted of a felony.

10 And third, that less than five years had
11 passed since all fines were paid and all imprisonment
12 served or any term of probation was completed.

13 The final charge again, is that the
14 Defendant is charged with the possession of a
15 firearm at the commission or attempt to commit a
16 felony.

17 In order to establish this charge, the
18 Prosecution must prove the following elements
19 beyond a reasonable doubt.

20 First, that the Defendant committed or
21 attempted to commit the crime of Murder in the
22 First Degree Premeditated or Second or Possession
23 of a Firearm by a Felon which I've already defined
24 for you. It's not necessary, however, that the
25 Defendant be convicted of that crime.

1 And second, the People have to establish
2 that at the time the Defendant committed or attempted
3 to commit any of those crimes, he knowingly carried
4 or knowingly possessed a firearm.

5 A firearm includes any weapon from which
6 a dangerous object can be shot or propelled by the
7 use of explosives, gas, or air.

8 To establish the Defendant is guilty of
9 possession of a firearm in the commission or an
10 attempt to commit a felony, the People have to
11 establish:

12 First, the Defendant committed or
13 intended to commit the crime of Murder in the First
14 Degree, Premeditated or Second Degree Murder or
15 Possession of a Firearm by a Felon.

16 Second, the People have to establish
17 that if the Defendant committed or attempted to
18 commit any of these crimes, he knowingly possessed
19 or knowingly carried a firearm.

20 Now, once you go to the jury room, you
21 should first choose a foreperson, he or she should
22 see to it discussions are carried on in a
23 businesslike way and that everyone has a fair
24 chance to be heard.

25 The verdict in a criminal case must be

1 unanimous in order to return a verdict. It's
2 necessary that each of you agree upon that verdict.

3 In the jury room you will discuss this
4 case amongst yourselves, but ultimately each of you
5 will have to make up your own minds. The verdict
6 must represent each individual considered judgment
7 of each juror.

8 It is your duty as jurors to talk to each
9 other and make every reasonable effort to reach an
10 agreement. Express your opinions and reasons for
11 them, but keep an open mind as you listen to your
12 fellow jurors. Rethink your opinions and do not
13 hesitate to change your mind if you decide you were
14 wrong. Try your best to work out your differences.

15 However, although you should try to reach
16 an agreement, none of you should give up your
17 honest opinions about the case just because other
18 jurors disagree with you, or just for the sake of
19 reaching a verdict. In the end your vote must be
20 your own.

21 Now, when you consider the First Count,
22 that is, First Degree Premeditated Murder, you must
23 first consider the charge of First Degree Premeditated
24 Murder. If you also agree that the Defendant is
25 guilty of a crime, you may stop your deliberations

1 and go onto the other Count or return your verdict.

2 If you believe the Defendant is not guilty
3 of Murder in the First Degree, Premeditated, or if
4 you're unable to agree about that crime, you may
5 then consider the lesser serious offense of Murder
6 in the Second Degree.

7 It is up to you to decide how long this
8 Defendant took on the principal charge, that is,
9 First Degree Premeditated Murder before discussing
10 the lesser offense of Second Degree Murder. Of
11 course, you may go back to the original offense
12 after discussing the lesser offense.

13 If you want to communicate with me from
14 this point forward, simply have the foreperson
15 write a note and give it to the officer. Do that
16 by writing a note. Come to the jury room door,
17 knock on the door, do not open the door because I
18 may be disposing of other cases.

19 Knock on the door, in a few moments when
20 we're able, one of the officers will give you an
21 answer knock and we'll accept the note. It's not
22 proper from this point on for you to talk directly
23 to the judge, the lawyers, court officers, or other
24 persons involved in this case, so unless you're in
25 the courtroom where we can take down every word

1 that's said, or you have written a note, you cannot
2 disclose any information.

3 When you discuss this case, you must not
4 let anyone, even me, know how your voting stands.
5 Therefore, until you return with an unanimous
6 verdict, do not reveal this information to anyone
7 outside the jury room. And when you have reached a
8 unanimous verdict, please write a note stating
9 we've reached a verdict and give that to the
10 officer.

11 We have prepared a verdict form for you.
12 Mark your verdict on the form when you've reached
13 your verdict.

14 It is the duty of the Judge to fix the
15 penalty within the limits provided by law. If you
16 want to look at any of the exhibits that have been
17 admitted into evidence, just ask for them and we
18 will deliver them to you.

19 Now, on Count I there are three possible
20 verdicts; Not Guilty, or Guilty of Murder in the
21 First Degree Premeditated, or Guilty of Murder in
22 the Second Degree.

23 On Count II, there are two possible
24 verdicts. They are Not Guilty or Guilty of
25 Possession of a Firearm by a Felon.

1 On Count II, there are two possible
2 verdicts, they are, Not Guilty or Guilty of
3 Possession of a Firearm in Committing or Attempting
4 to Commit a Felony.

5 Gentleman, any problems with the charge?

6 MR. HASSINGER: I'm satisfied, Judge.

7 MR. LANKFORD: Likewise, Your Honor.

8 THE COURT: You've seen the verdict form
9 with the discrepancy I just called on Count number
10 two which I'm going to have to change. Any problem
11 with the verdict form?

12 MR. HASSINGER: No, Judge.

13 MR. LANKFORD: No, Your Honor.

14 THE COURT: Please swear the officers.

15 (Whereupon Officers sworn)

16 THE COURT: Now, ladies and gentlemen, the
17 Clerk is about to pull two jurors who will not be
18 deliberating. I want to tell those jurors ahead of
19 time we do appreciate your services, but you will
20 not be able to talk about this case until you get a
21 telephone call from my clerk or secretary telling
22 you that a verdict has been rendered, because if
23 somebody gets the flu or sick before the verdict is
24 reached, we can always bring back one of those or
25 two of those jurors to reconstitute the jury of 12,

1 so we don't have to go and retry the case again.

2 So what's going to happen is once your
3 name is called, you will step down and one of the
4 officers will take you to the clerk's office where
5 you will leave a telephone number where we can
6 reach you.

7 And after the verdict is rendered, you
8 will be told that you may discuss this case. But
9 until that time, we'd ask you just not to discuss
10 this case both here and at home.

11 All right, you're ready to pull the two
12 jurors?

13 THE CLERK: Kenneth Hagen, and Katherine
14 Hoeft.

15 THE COURT: To the both of you and to all
16 the parties in this matter, we appreciate your
17 services as jurors. Thank you ladies and
18 gentlemen, we're going to rise and have you step
19 into the jury room. You may begin your deliberations
20 as soon as you are all inside the jury room.

21 (Jury exits courtroom)

22 (Court is in recess)

23 (Court reconvenes)

24 THE COURT: We're going to bring the jury
25 in.

1 (Jury enters courtroom)

2 THE COURT: Do I have the stipulation that
3 all of our jurors are here and in their proper
4 places?

5 MR. HASSINGER: So stipulated Judge.

6 MR. LANKFORD: Agreed.

7 THE COURT: Would you please take the
8 verdict.

9 THE CLERK: Members of the jury, have you
10 agreed upon a verdict, if so, who shall speak for
11 you? Your name for the record, please.

12 JUROR MORRIS: John Morris.

13 THE CLERK: Thank you. How do you find the
14 Defendant, Michon Houston as to Count IV?

15 JUROR MORRIS: Guilty of first degree
16 murder.

17 THE CLERK: As to Count two?

18 JUROR MORRIS: Guilty of possession of a
19 firearm by a felon.

20 THE COURT: And Count III?

21 JUROR MORRIS: Guilty of Possession of
22 Firearm in the Commission or Attempt to Commit a
23 Felony.

24 THE CLERK: Thank you. Members of the
25 jury could you please all stand. Raise your right

1 hand and listen to your verdict as recorded by the
2 court.

3 You solemnly swear or affirm that you
4 find the Defendant Michon Houston guilty of Count
5 one, first degree murder, guilty of Count two
6 possession of a firearm by a felon, and guilty of
7 Count three, possession of a firearm in a
8 commission or attempt to commit a felony, so say
9 you Mr. Foreman, and so say you all members of the
10 jury?

11 JURY PANEL: Yes.

12 THE CLERK: Thank you.

13 THE COURT: Please be seated. Poll the
14 jurors.

15 THE CLERK: Juror in seat number one, was
16 that and is that your verdict?

17 JUROR #1: Yes.

18 THE CLERK: Seat two, was that and is that
19 your verdict?

20 JUROR #2: Yes.

21 THE CLERK: Seat three, was it and is that
22 your verdict?

23 JUROR #3: Yes.

24 THE CLERK: Seat four, was this and is
25 this your verdict?

1 JUROR #4: Yes.

2 THE CLERK: Seat five, was that and is
3 that your verdict?

4 JUROR #5: Yes.

5 THE CLERK: Seat six, was that and is that
6 your verdict?

7 JUROR #6: Yes.

8 THE CLERK: Seat seven, was that and is
9 that your verdict?

10 JUROR #7: Yes.

11 THE CLERK: Seat eight, was that and is
12 that your verdict?

13 JUROR #8: Yes.

14 THE CLERK: Seat nine, was that and is
15 that your verdict?

16 JUROR #9: Yes.

17 THE CLERK: Seat ten, was that and is that
18 your verdict?

19 JUROR #10: Yes.

20 THE CLERK: Seat eleven, was that and is
21 that your verdict?

22 JUROR #11: Yes.

23 THE CLERK: And seat thirteen, was that
24 and is that your verdict?

25 JUROR #13: Yes.

1 THE CLERK: Thank you.

2 THE COURT: Ladies and gentlemen of the
3 jury, the court and all the parties in this matter
4 and the People of the state of Michigan appreciate
5 the services that you've rendered to the justice
6 system in arriving at your verdict. We appreciate
7 you taking time out your busy lives to come and
8 serve on jury duty. Were not the person like
9 yourselves willing to make the sacrifice, our
10 system of justice would fail because then we could
11 not have any jury trials.

12 In just a few moments we're going to rise
13 and have you step back into the jury room. When
14 things are secured, you will be permitted to go
15 home. I'm going to ask the foreperson to hand me
16 the verdict forms as you're stepping back inside.
17 Everyone rise. Jurors are free to step back into
18 this jury room.

19 (Jury exits courtroom)

20 THE COURT: You may be seated. He's
21 remanded to the jail. The disposition date?

22 THE CLERK: That will be April the 22nd.
23 That's a Tuesday.

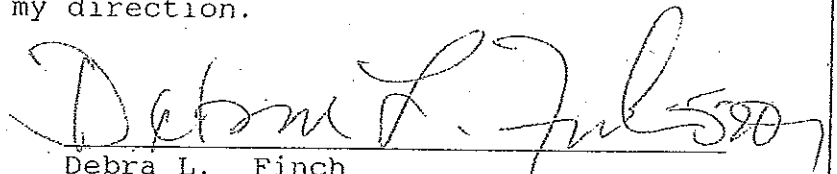
24 MR. LANKFORD: That's a fine date. Thank
25 you.

1 THE COURT: April 22nd is good. Okay, he
2 can go back with the officers. Gentlemen, I'm
3 going to talk to my jurors and then I'll have you
4 take them out. Okay.

5 (Proceeding concluded)
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R E P O R T E R ' S C E R T I F I C A T E

I do hereby certify that I have recorded stenographically the proceedings had and testimony taken in the above-entitled matter at the time and place hereinbefore set forth, and that the foregoing is a full, true and correct transcript of the proceedings had in the above-entitled matter; and I do further certify that the foregoing transcript has been prepared by me or under my direction.



Debra L. Finch
Certified Shorthand Reporter - 5702

Dated: August 9, 2003